United States
*of* America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE *102th* CONGRESS, SECOND SESSION

## SENATE—*Friday, October 2, 1992*

*(Legislative day of Wednesday, September 30, 1992)*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the acting President pro tempore [Mr. KOHL].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Baruch HaShem. Blessed be the name of the Lord.

*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 mine iniquity, and cleanse me from my sin. For I acknowledge my transgressions: and my sin is ever before me. Against thee, thee only, have I sinned, and done this evil in thy sight: that thou mightest be justified when thou speakest, and be clear when thou judgest. Behold I was shapen in iniquity, and in sin did my mother conceive me. Behold thou desirest truth in the inward parts: and in the hidden part thou shalt make me to know wisdom. Purge me with Hyssop, and I shall be clean: wash me, and I shall be whiter than snow. Make me to hear joy and gladness; that the bones which thou hast broken may rejoice. Hide thy face from my sins, and blot out all mine iniquities. Create in me a clean heart, O God; and renew a right spirit within me.*—Psalm 51:1–10.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

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

The ACTING PRESIDENT pro tempore. That is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning the Senate will debate for 1 hour the motion to invoke cloture on the education bill. At the completion of that debate, a vote will occur on that motion. Following disposition of that bill, the Senate will debate for 1 hour and then vote on the crime bill conference report and then we will vote on that motion. Following disposition of that bill, the Senate will debate for 1 hour and vote on a cloture motion on the reauthorization bill for the National Institutes of Health.

Since the disposition of the matters will depend upon the outcome of each of the cloture votes, it is not possible

**NOTICE**

A final issue of the Congressional Record for the 102d Congress, second session, will be printed after the sine die adjournment. Members may submit manuscript for printing to the Official Reporters of Debates not later than October 29, 1992. The interim issue will be dated October 29, 1992, and delivered on October 30.

None of the material printed in the Congressional Record during the recess may contain subject matter, or relate to any event, which occurred after the date the Congress officially adjourned.

No provision herein shall be construed to supersede the two-page rule.

All material must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates, Room HT-60 or S-220 of the Capitol. These offices are open Monday through Friday between the hours of 10 a.m. and 3 p.m.

Members of Congress desiring to purchase reprints of materials printed in the Congressional Record during the adjournment may do so through the Congressional Printing Management Division, located at the Government Printing Office. This office may be reached by telephoning 512-0224 between the hours of 8 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

CHARLIE ROSE, *Chairman.*

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



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now to know with certaint when the second and third votes will occur. But we intend to press forward on all of these and other measures as we attempt to meet the deadline for adjournment of this Congress set some weeks ago by the Speaker and myself.

I thank my colleagues for their cooperation. Senators should be aware that there may be a late session this evening. It may be necessary for the Senate to be in session on Saturday. If necessary, there could be a session on Sunday. It is my preference that we not meet on Sunday if we can arrange our affairs in such a manner so as to make it unnecessary, but that will require extraordinary cooperation from our colleagues, and I will not make a decision or announcement about the sessions on Saturday and Sunday until later this evening.

I thank my colleagues, and I yield the floor.

## NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT—CONFERENCE REPORT

### CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 1 hour for debate, equally divided, on the motion to invoke cloture on the conference report accompanying S. 2, which the clerk will report.

The 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 the conference report accompanying S. 2, the education bill:

Paul Simon, Herb Kohl, Jim Sasser, John Breaux, Christopher Dodd, Harry Reid, Charles S. Robb, Daniel K. Akaka, Tom Daschle, Harris Wofford, Dale Bumpers, Richard Bryan, John F. Kerry, Max Baucus, David Pryor, Jay Rockefeller.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

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

Mr. President, this morning, the Senate is being asked to invoke cloture so that we may approve the conference report on the Neighborhood Schools Improvement Act (S. 2).

This is a strong bill that will take important steps to improve our schools. The bill provides for national education goals, the establishment of voluntary national education standards, the development of model national assessments, and regulatory flexibility initiatives for local schools.

The bill also establishes a formula grants program that will provide Federal funds to States to make competitive grants to local schools to improve student achievement. Those with the best proposals will get funded. Those that do not have good ideas will not win awards.

Funds will be provided to schools over a 5-year period. Schools must show gains in academic achievement. Schools that do not show gains will lose their money. Schools that show gains in academic performance will continue to receive funds.

The opponents of this bill claim that it is deficient because it does not include the initiatives advanced by the Bush administration. With one exception, this is wrong.

There are five principal parts to this bill. Four are initiatives that the administration has previously supported. These are: First, putting the national goals panel on a statutory basis; second, establishing voluntary national education standards; third, developing voluntary model tests and assessments; and fourth, providing greater regulatory flexibility in Federal education programs.

The fifth part of the bill is the Neighborhood Schools Improvement Grants Program, which provides funds to local schools for school reform and links individual school activities with State and local systemwide reform plans.

Unlike the administration's new American schools proposal, this plan will be available to benefit all public schools—not just 535 new schools, one in each congressional district, as the administration proposed.

In addition, this bill will not divert scarce public funds from public schools to private schools.

Unlike the administration's proposal, school reform will be directed by the States and local schools, the Federal Department of Education would not set the terms or pick the winning schools.

Unlike the President's proposal, this bill incorporates strict accountability. Funds will be cut off if the schools do not demonstrate improved academic performance.

The Neighborhood Schools Improvement Act rejects the concept of privatizing education in America, abandoning the public schools, or giving the Secretary of Education final say on where to spend the money. If Federal control of local education is a danger, this bill avoids it far more effectively than the administration's plan.

Yesterday, I received a copy of a letter from Secretary Alexander to the majority leader, GEORGE MITCHELL. The letter cites five reasons for opposing this bill. Secretary Alexander's points are distortions of the legislation, and for the most part contradict positions the administration has previously taken.

First, he claims that the bill "pokes the Federal Government's nose too far in to local decisions—it creates at least the beginnings of a national school board that could make day-to-day school decisions on curriculum."

It is true that the education bill contains national education standards and takes a step forward in the direction of developing a national assessment of education. That is something the administration has eagerly supported.

It was the first point of the President's America 2000 proposal. He called for "new world standards" and "nationwide American achievement tests," developed in conjunction with the National Goals Panel. This bill provides for those standards. It is difficult to understand how Secretary Alexander can now claim that this step will create a National Board of Education.

Second, Secretary Alexander claims that the legislation will allow States to retain 20 percent of their funds, and local education agencies to retain 10 percent of their funds, for systemwide planning and innovative school reform.

Again, the administration has changed its position. In the Senate the administration wanted the States to keep 35 percent of the funds, so they could support innovative new schools.

This bill allows the States and local education agencies together to keep 30 percent—hardly a difference that justifies a veto.

Third, Secretary Alexander complains that the regulatory flexibility proposal does not go far enough.

In fact, it does go quite far. The program initially covers 17 education and social programs, 10 States and 750 schools, far more programs and States than in the original Senate bill.

It is the most comprehensive regulatory reform initiative ever attempted in Federal education policy.

There were good reasons for being careful not to go too far in this process: The Federal regulatory provisions in education are the result of years of evidence that funds were improperly spent. This new flexibility approved in this bill establishes the groundwork for further regulatory reform in the future.

Fourth, Secretary Alexander complains that the bill does not authorize private school choice. Both the House and Senate had rollcall votes on proposals to use Federal funds for such programs and were decisively rejected. Nothing in the bill prevents any State or local agency from spending all its funds from the program on choice among public schools, if that is what States and local schools want.

What the bill does not do is impose choice from the Federal level on States and local schools that choose not to spend it. It is difficult to believe that Secretary Alexander, if he is truly concerned about Federal control, would have it any other way.

Fifth and finally, Secretary Alexander objects to the failure of the bill to authorize 535 new American schools as proposed by the President, at $1 million each, one for each congressional district, to create private, for-profit or

religious, schools as chosen by the Secretary himself.

But one per congressional district picked by the Secretary was a bad idea. Innovative new schools are a good idea and the bill specifically allows it. If any State wants to fund new American schools, the bill specifically authorizes funding of "innovative school reform activities."

That term can certainly include new American schools, as long as they are new American public schools.

This bill is an excellent start on school reform. It is the same basic bill that the Senate approved by a vote of 92 to 6 in January. It includes most of the things that the President wants—national goals, education standards, educational assessments, and money for reform of local schools.

We hope that all 92 Members who supported this bill in January will act to approve the conference report and send the bill to the President.

This is a good bill and it deserves to be approved by the Senate. A vote to invoke cloture will be a step in that direction.

Mr. President, I will include these endorsements of the legislation, but I want to just take a moment of the Senate's time in quoting first of all the National Alliance of Business, which includes many of the most important and successful companies and corporations in the country. I will include the full statement in the RECORD. Here is one paragraph:

Constructive Federal action to stimulate education reform at the state and local levels has been an important goal for the Alliance, representing thousands of business leaders involved in education improvement around the country. We believe that this bill is a constructive effort to legislate the education reform agenda initiated by the President and the Governors in Charlottesville, Virginia, which first established a national education goal.

Here we have a letter from the Council of Chief State School Officers. I will include the full letter in the RECORD.

The Neighborhood Schools Improvement Act supports schoolwide restructuring, not a piecemeal or categorical approach. Federal legislation has never done that before. The Neighborhood Schools Improvement Act provides that Governors, State legislators, business leaders, mayors, and community leaders have key roles in developing state and local reform plans. Federal legislation has never done that before.

We will hear comments about the structures that are set up and whether it has been overbureaucratized. Here the National Business Alliance urges the Senate to support this proposal, and the Council of Chief State School Officers who are out on the firing line day in and day out.

Let me continue what they say:

This legislation includes fundamental changes proposed by the President and Members of both parties on the way the Federal Government promotes educational change and excellence. Our schools, school districts and States need the help this act promises as rapidly as possible.

My characterization of the legislation is not only what the legislation states, but it is what those individuals who are on the firing line day in and day out say is needed.

And I continue with the National PTA and will include their full statement.

The act is not prescriptive, but provides local public schools a variety of restructuring options that will supplement current school improvement moves.

This is the organization that represents the parents. Important provisions in this legislation include parental involvement, and this is what they say, the organization:

The act allows for parental involvement and recognizes the importance of parent participation in school change.

The act focuses on the most impoverished schools and students in both rural and urban settings.

The act invites collaboration with other community-based child-serving agencies in an effort to coordinate services.

An extremely important position. And finally:

The act's objectives are most effective—they focus on the neighborhood school as the most critical level for change.

These are the organizations that understand what this bill is all about. These are the groups that are on the firing line day in and day out.

I will include others, but I welcome the kind of endorsement that they have given to this legislation. That is what we attempted to do. That is what I believe we have achieved. And we welcome the fact that those individuals and organizations that are out on the firing line day in and day out and that are closest to the students and the parents and the communities have given such a ringing endorsement to this legislation.

Mr. President, I ask unanimous consent that the letter to which I referred be printed in the RECORD.

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

NATIONAL ALLIANCE OF BUSINESS,
*Washington, DC, September 29, 1992.*

Hon. EDWARD M. KENNEDY,
*Chairman, Committee on Labor and Human Resources, Hart Senate Office Building, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to express support of the National Alliance of Business for approval of the final conference report on education reform legislation, the "Neighborhood Schools Improvement Act."

Constructive federal action to stimulate education reform at the state and local levels has been an important goal for the Alliance, representing thousands of business leaders involved in education improvement around the country. We believe that this bill is a constructive effort to legislate the education reform agenda initiated by the President and the governors in Charlottesville, Virginia, which first established national education goals. We recognize that the bill is not ideal, but it represents a critical step toward achieving the goals.

From a business perspective, the key contributions of the bill would be to codify the national education goals into law and to establish federal objectives to help meet the goals. The bill would reconstitute the National Education Goals Panel, and, most important, would authorize a process to develop a system of voluntary, national education standards and assessments. Federal grants to local school districts and schools would be awarded competitively based on state and local plans for comprehensive school restructuring which would be developed with business participation. Schools must show gains in academic achievement or funds are cut off, establishing accountability and responsibility for school reform at the local level.

We view this bill as one important step in the bipartisan effort to improve American education. We commend your efforts to shape and complete a bill in this Congress, and urge your support for final enactment into law.

Sincerely,

WILLIAM H. KOLBERG,
*President.*

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COUNCIL OF CHIEF
STATE SCHOOL OFFICERS,
*Washington, DC, September 28, 1992.*

Re vote "Yes" on the Neighborhood Schools Improvement Act (S. 2) Conference Report.

DEAR SENATOR: This week the conference report on the Neighborhood Schools Improvement Act (NSIA) will come before the Senate for final passage. The nation's chief state school officers urge you to vote "yes" on this essential legislation.

The Neighborhood Schools Improvement Act supports school-wide restructuring, not a piecemeal or categorical approach. Federal legislation has never done that before. The Neighborhood Schools Improvement Act provides that governors, state legislators, business leaders, mayors, and community leaders have key roles in developing state and local reform plans. Federal legislation has never done that before.

This Act codifies the National Education Goals; authorizes development of voluntary national education content standards for students and voluntary national school delivery standards. It provides funds for developing model assessments in mathematics and science. These are all breakthroughs in Federal legislation.

The Neighborhood Schools Improvement Act provides for demonstration of deregulation by giving flexibility to states and school districts in administering Federal programs. This flexibility is brand new in Federal education legislation.

This legislation includes fundamental changes proposed by the President and members of both parties on the way the Federal government promotes educational change and excellence. Our schools, school districts and states need the help this Act promises as rapidly as possible.

Once again, we urge you to vote "yes" to the conference agreement on S. 2. Thank you in advance.

Sincerely,

GORDON M. AMBACH,
*Executive Director.*

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THE NATIONAL PTA,
*Chicago, IL, September 29, 1992.*

DEAR SENATOR: The Neighborhood Schools Improvement Act conference report is anticipated to be taken up by the full Senate later this week. The National PTA, com-

prised of over 6.9 million parents, teachers and other child advocates, urge you to vote for the conference report. This provides financial help to public schools that either are currently or will be undertaking initiatives for educational restructuring and reform.

The Neighborhood Schools Improvement Act should be passed for the following reasons:

1. The act provides assistance solely for needy public schools and does not include funding for private or religious schools in any form;

2. The act is not prescriptive, but provides local public schools a variety of restructuring options that will supplement current school improvement moves;

3. The act allows for parental involvement and recognizes the importance of parental participation in school change;

4. The act focuses on the most impoverished schools and students in both rural and urban settings;

5. The act invites collaboration with other community-based child-serving agencies in an effort to coordinate services;

6. The act's objectives are most effective—they focus on the neighborhood school as the most critical level for change.

The National PTA supports this bill in its current form and asks that you cast your vote in support.

Sincerely,

ARLENE ZIELKE,
*Vice-President for Legislative Activity.*

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THE NATIONAL COALITION
FOR PUBLIC EDUCATION,
*Washington, DC, September 29, 1992.*

DEAR SENATOR: This week, the Senate will be taking up the Neighborhood Schools Improvement Act Conference report, S. 2 and H.R. 4323. The National Coalition for Public Education (NCPE) has been working with members of both the House and the Senate to assure that monies from this act be allocated only to public elementary and secondary schools. The NCPE strongly supported the Senate's defeat of several private school amendments when S. 2 was originally passed on January 22, 1992; and NCPE was also strongly supportive of the House's overwhelming defeat of similar private school voucher amendments when H.R. 4323 was passed on August 11, 1992. This decisive action on behalf of public schools sends a clear signal that Congress does not believe that private school vouchers are a legitimate educational reform vehicle.

As the Neighborhood Schools Improvement Act comes up for a vote later this week, we ask that you take into account that the act rightly allocates money to public schools only. We ask that you oppose all parliamentary ploys intended to add private school parental choice including the President's G.I. Bill or any other form of private school aid. The National Coalition for Public Education is an organization of over 40 education, religious, civic and civil rights group opposed to public money going to private and religious schools.

We thank you for your attention in this matter.

American Association of School Administrators.
American Civil Liberties Union.
American Federation of Teachers.
American Jewish Committee.
American Association of University Women.
Baptist Joint Committee.
Council of Chief State of School Officers.
General Conference of Seventh-day Adventists.
Council of the Great City Schools,
International Reading Association,
National Association of Elementary School Principals.
National Committee for Citizens in Education.
National Association of State Boards of Education.
National Coalition for Public Education and Religious Liberty (PEARL).
National Education Association.
National Congress of Parents and Teachers Association.

Mr. KENNEDY. I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, I rise to express my opposition to the conference report on S. 2, the Neighborhood Schools Improvement Act, and urge that all my colleagues join me in voting against cloture on this measure.

Mr. President, it is not for political reasons that I oppose this legislation. It is because I support sound, sensible measures regarding education, and I do not believe that this is one. It is a great disappointment to me to have to be arguing against a measure I would like to support. The bill we passed in January was one which I did support, as did a large majority of the Senate, as was pointed out by the Senator from Massachusetts.

However, little of that Senate bill is now in this conference bill before us, and I would say to the chairman of the Labor and Human Resources Committee, it is not basically the same bill which was passed by the Senate in January.

I would like to go through some of the reasons why I believe this is not a sound or sensible approach at this time.

It goes without saying that it is difficult for any of us to oppose a bill that has education in its title. No one opposes education. No one argues against its importance in assuring that our Nation stands tall in an increasingly competitive world.

In many respects, the easiest thing to do would be to just let this bill go. We all know there is not any money available to fund this program. Moreover, any action we take at this late date will surely be overshadowed by the reauthorization of the Elementary and Secondary Education Act during the next Congress. The gesture might be meaningless, but we could all go home and say we voted for education reform.

However, it is simply too late to be considering this bill. The conference report for the Labor-HHS-Education fiscal year 1993 appropriations bill was filed last night. There is not one penny of the $800 million authorized by S. 2 in that measure. In fact, funds are already tight for the proven, existing education programs already on the books. That is going to be a very important reauthorization beginning the first of 1993.

Moreover, even under the best of circumstances, by the time any school could expect to receive funds under this bill, we will have passed a major reauthorization of Federal elementary and secondary education programs—involving over $13 billion of funds which are available and are being spent.

The most we can hope to accomplish by approving this measure at this late date is to send a signal that Congress is interested in education reform. However, if we do so, we will be sending the wrong signal. This is a bill which promotes bureaucracy—not reform. By once again saying that the Federal Government knows best, we threaten to strangle creativity and innovation at the State and local levels.

As a former school board member of a small rural school district, in Kansas, I cannot tell you how strongly I feel about increasing bureaucracy at the Federal level regarding our educational system.

Having been a member of the conference committee on this bill and having reviewed its final provisions, I have determined that I cannot simply cast my vote in favor of this legislation just because it concerns education. This is a course I simply cannot take. The structures we build in one piece of legislation are often superimposed on other programs, and—once built—they rarely go away. I believe the structure of this bill is not sound education policy and think it would be a tragedy if it were to serve as a cornerstone of other new or existing Federal assistance programs.

It was dismaying to me to see the features of the Senate bill which I believed were most important hit the cutting room floor during conference deliberations. The bill which left the Senate included a streamlined administrative structure, a direct focus on local neighborhood schools, and a strong emphasis on targeting assistance to those schools in greatest need. By contrast, the conference bill establishes an elaborate maze of new bureaucracies for schools to try to negotiate and fails to target assistance in any meaningful way.

My single biggest concern with the bill is, in fact, its creation of a bureaucracy which could potentially stifle rather than assist reform efforts which are already underway at the State and local levels.

Many of us worked very hard to streamline the process included in earlier versions of the Senate bill, and I was very appreciative of the assistance given by the Senator from Massachusetts in that endeavor, and the chairman of the Education Subcommittee, Senator PELL.

The bill which passed the Senate provided for the provision of grant funds to State education agencies [SEA's],

which developed a State reform plan in consultation with an advisory council. Local schools desiring assistance would develop a proposal in cooperation with school officials, community participants, and a local education agency [LEA]. The LEA would then submit the application to the State which would make funding decisions.

The requirements which emerged from conference, however, are much like the before and after pictures of a weight-loss ad—in reverse. And I dislike having to spend some time laying out the bureaucracy of it all.

But under the conference bill—and I would just like to explain how complicated this gets—a State first applies for a planning grant, then establishes a State improvement panel. The panel then develops a plan and sends it to the State education agency, which may approve it or disapprove it or send it back for revision.

When a suitable plan is developed, the SEA submits it to the Secretary—who cannot disapprove it except after giving the State notice, technical assistance, and an opportunity for a hearing.

Local education agencies wishing to receive funding undergo a parallel process—also establishing a reform committee. A peer-review process must be established at the State level to review LEA applications. In the meantime, the LEA selects schools to receive funding and submits both its local reform plan and school funding proposals to the State.

Finally, schools which wish to obtain grant support must submit a restructuring proposal to the LEA.

So the State, the local education agency, and schools by and of themselves, all go through the same elaborate procedure.

I should also point out that, not only does the bill require the establishment of State and local policymaking panels outside those which already exist, but it also specifies who should serve on those bodies. If the point of all these reform committees is to bring in fresh blood and new ideas, we should at least leave room for States and localities to identify such individuals themselves.

The structure I have just described is exactly the reason that the American public is frustrated with the Federal Government and with all of us. Washington is seen not so much a source of support as of aggravation.

Another major point of difference between the House and Senate bills was whether reform will be accomplished from the top-down or from the bottom-up. Clearly, the top-down approach favored by the House prevailed in the conference bill.

I believe that most of us in the Senate were very disappointed with this outcome. Whatever one may say about the failings of our current system and our need for improvement, it would be foolhardy not to recognize that one of the real strengths of the system is the personal stake that individuals and communities have in their schools.

We cannot legislate the kinds of individuals who are involved in schools on a day-to-day basis, nor can we regulate their day-to-day behavior. It is the commitment, talents, and interests of teachers, parents, and administrators that will make or break any reform effort. Reform takes the constant prodding and adjustments which can only be done by those on the scene who are committed to that effort.

The fact of the matter is that the future of education reform in this country does not hinge on the enactment of this legislation. Our tendency to offer Federal assistance in the form of a one-size-fits-all regulatory straitjacket could actually produce the opposite result.

All over this country, States and localities are actively engaged in exciting and innovative reform efforts. They have undertaken these efforts without a Federal prescription regarding the type of committees they should establish, the membership of those committees, or the specific reform methods to be included. They undertook those reforms because people in their districts and in their education arenas believed that they could do it and knew what they wanted for their schools.

I am sure that every Member of this body can produce a list of innovations underway in his own State, whether it is Massachusetts, Kansas, or Utah or any of the other States so represented here on the floor.

One wonders how many of these programs could meet the specs outlined in this bill. I am not sure that they could with the innovations which they are undertaking.

President Bush has called upon communities across the Nation to undertake a concerted examination of what they want from their schools. In a country as diverse as our own, a variety of exciting and thoughtful responses have emerged. Let us not strangle these efforts in their infancy with reams of redtape.

Other aspects of the legislation before us are disappointing as well. It includes a statement of the six national goals, along with a series of findings calling for unrealistic levels of spending for a variety of Federal programs—unfairly raising expectations that the Federal Government will honor commitments in the future which has been unable to honor in the past.

It omits any specific mention of the innovative reform ideas included in the Senate bill. These ideas—such as new American schools, comer schools, essential schools, charter schools—are not even referenced in report language. This totally ignores the substantial interest in this area, as evidenced by the fact that the privately funded New American Schools Development Corporation received proposals from 686 groups.

It also sets the stage for Federal involvement in areas more appropriately left to State and local governments. For example, it calls for data collection activities in the area of school finance. Unless the Federal Government is prepared to help assume the general operating costs of local schools, which I doubt, there are serious questions regarding our ability to play a constructive role in this sensitive and complex area.

Likewise, provisions in the bill relating to the development of school delivery standards open the door to future attempts to decide at the Federal level, educational inputs, ranging from class size to teacher credentials. In addition, at a time when we are trying to do more to look at educational outcomes, this brings us back to looking at inputs and may have the effect of requiring or encouraging every school in the Nation to do everything in the same way, whether or not that makes sense for them.

I also note that there are some good features of the bill. It gives statutory recognition to the National Education Goals Panel, which was established following the 1989 education summit between President Bush and the Nation's Governors. Earlier this week, this group issued the 1992 National Educational Goals Report. This bill also provides the waivers of Federal requirements which stand in the way of efforts to serve students more effectively. Such waivers would be permitted in up to 750 schools across the country. Contrary to the thrust of this bill, this provision recognizes that Federal statutory and regulatory requirements can get in the way of good ideas at the local level.

In conclusion, I urge that, before casting their votes, all Members consider these important points:

First, this bill is not the right thing to do for education and may, in fact, stifle the flexibility needed to achieve true reform.

Second, it holds out false promises and expectations because not one penny of the $800 million authorized for fiscal year 1993 has been appropriated. In fact, it has proven impossible under current budget circumstances to fund existing, proven programs at the levels we would like to see.

I wonder if any of the groups that are endorsing this legislation know that. Although my office has not received any of them, the Senator from Massachusetts says that five or six groups have sent letters of endorsement. However, I wonder if they really know there is nothing in this but, perhaps, false hopes for the future.

Third, even if funds were appropriated in some future year, little, if any, money would be available for pro-

grams in schools until a second year of funding was provided. First-year funding would be solely devoted to planning.

Fourth, nearly 2 years after this bill was introduced, and 8 months after it was approved by the Senate, we are considering an elementary and secondary education bill in the waning hours of the 102d Congress. Within the 103d Congress, when it reconvenes in just 3 months, we will begin a comprehensive review of the elementary and secondary education programs—for which over $13 billion are available and being spent—in preparation for reauthorization of the Elementary and Secondary Education Act.

That is the appropriate forum for a serious discussion of the effect of the Federal role in promoting education reform.

Mr. President, for all these reasons, I urge that we not go forward with this bill at this time.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 17 minutes, 40 seconds.

Mr. KENNEDY. I yield myself 3 minutes.

Mr. President, I listened with great interest to my friend and colleague characterize the legislation and the shortage of resources in terms of this legislation. That is very true. It is interesting to have our Republican colleagues urging that we need the additional funding for education programs. We do need it. Although money is not the only answer, the level of funding does reflect the Nation's priorities. I am very hopeful that that attitude will continue as we move forward on other education programs.

What is not mentioned, however, is what is included in this legislation. This legislation is a national statement of policy on education. We have standards and the development of assessments. We have flexibility and waiver provisions. We authorize waiver provisions in this legislation that will help States eliminate some of the Federal regulations on some 17 different programs. That was argued about here in January and was actually proposed by the Senator from Oregon [Mr. HATFIELD]. I know he wishes that we had even more flexibility even though we did 6 States in the Senate bill and have 10 States and 17 programs. Nonetheless, it is not as expansive as some would like. With the authorization however, the process can begin and we can start eliminating interference, duplications, and overlap and the bureaucracy of many programs.

We are for that. We support it. It is in this legislation, and we are delaying eliminating these problems unless we pass it.

Second, the costs of the standards and the costs of the assessments, Mr. President, are not great. These concepts have been supported by the President of the United States. We provide specific authorization for moving ahead. We have to try and determine what our children ought to know in key subjects, such as math and history and other extremely important subjects. Developing assessments for those standards is also enormously important. It is going to take time. How are we going to develop assessments that will be fair and be able to look at various considerations of children's performance? Those are matters that are included in this program.

Finally, Mr. President, if this was as bureaucratic as my friend and colleague has pointed out, it is difficult for me to believe that we would have the kind of support from the business community that we have. They have indicated a ringing endorsement for it. On the one hand, those that are opposed to this legislation say we are not providing new people, new ideas, new opportunities, for parents and community leaders and business leaders to be involved in the education reform. So we have tried to do that by developing groups at the local level and the State level that can provide that kind of input. Now we have done that, we are told that we are developing an additional bureaucracy, and therefore you cannot support it. We have tried to provide a balance, and I think we have a good balance.

On the one hand, our Republican colleagues are complaining about the bureaucracy and, on the other hand, we have the support of the chief of State School Offices, the National State Board Association, the National School Boards, the Council of Great City Schools, the National PTA Association, the Association of Elementary School Principals, and the Association of Secondary School Principals. You cannot have it both ways. It is difficult to believe we could have those endorsements and have provided a mechanism for those that are involved at the local level in the school reform. In such a way that we have the strong and overwhelming support of the business community, and yet still have created a bureaucracy.

So, Mr. President, I hope at least for some of those reasons, and others which identified earlier, that we would support the bill.

Mr. PELL addressed the Chair.

## ADDITIONAL CONFEREES—H.R. 5334

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following Senators from the Environment and Public Works Committee be appointed as additional conferees with respect to title X of H.R. 5334, the Affordable Housing and Community Development Reauthorization Act: Senators MOYNIHAN, REID, and CHAFEE.

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

## NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT—CONFERENCE REPORT

CLOTURE MOTION

The Senate continued with consideration of the cloture motion.

Mr. PELL. Mr. President, I express my strong support for the conference agreement that has been reached on S. 2, the Neighborhood Schools Improvement Act. It is important legislation, and I hope very much that we can approve the conference report so that this legislation can be sent to the President for his signature.

The Senate-House agreement provides an authorization of $800 million for a grant program to encourage systemic education reform at the local school level. My home State of Rhode Island would be eligible to receive approximately $2 million a year to support education reform programs in schools throughout the State.

The legislation also provides for a demonstration program to support flexibility in Federal education programs in 10 States. The purpose of the program would be to reduce Federal regulatory burden and achieve program simplification. Both of these goals compliment and strengthen my longstanding commitment and efforts to reduce the paperwork burden in our Federal education programs. Our goal should always be to make sure that our education programs efficiently and effectively serve the students who need our help most, and the demonstration program that is a part of this legislation is designed to do just that.

Finally, the legislation supports the development of voluntary national content standards in all areas, and of model assessments in mathematics and science. The standards are absolutely necessary as a statement of what students should be expected to know in vaious subject areas. This is critical if our education system is to be truly world class, and if we are to achieve the national goals in education set forth almost 3 years ago.

The Department of Education, often in cooperation with other Federal agencies, has already made grants for the development of standards in areas such as history, civics and government, and the arts. This legislation recognizes the work that is already in progress. It seeks not to interrupt that work, but to add to it. It seeks to strengthen the process of stsandards development, and provides for the certification of such standards by the National Goals Panel. These are important steps in the right direction of bringing true reform to the American schools.

Standards are not enough, however, and I am very encouraged that we not

only encourage but support, as part of the Eisenhower Math and Science Act, the development of model assessments in mathematics and science. I am equally encouraged that we do not preclude the work on assessments in other areas. Our efforts mean little if we do not have assessments to determine if we are meeting the standards we set forth.

As my colleagues know, I have long believed that we should have a national test or a series of national tests to measure what students know. That measurement would help us understand what we have to do to improve the education of students nationwide. It would also help us target those students most in need of our help, and identify those schools and local education agencies where the need for improvement is most pressing. That information would not only help us help students but also help us improve American education overall.

Our goal is to make American education world class in every classroom in the Nation. None should be left out, and none should be neglected. Make no mistake about it, our efforts are to lift the quality of education everywhere. And, to my mind, that means a very specific, concentrated effort in those schools where improvement is the most difficult to achieve, and with those students who most need our assistance.

This legislation is a step in the right direction, but it is only a step. I would hope, therefore, that we would view it as a precursor to what we should be considering when we begin our work to reauthorize the Elementary and Secondary Education Act next year.

Mr. President, I urge my colleagues to join me in approving this important conference agreement.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I yield 5 minutes to the Senator from Mississippi [Mr. COCHRAN].

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. I thank the distinguished Senator from Kansas for yielding time to me.

Mr. President, the vote we will be called upon to cast after this 1 hour of debate is completed is on cloture on the motion to proceed to the consideration of the conference report. Some of us have the very strong feeling that this conference report should not be considered by the Senate at this time. I feel very strongly that it should not be considered, and I am going to vote against invoking cloture on this motion.

The reason is because of my serious concern about the discussions that we had in conference, the absolute failure of the conferees on the part of the House to consider seriously or discuss any of the reforms contained in the bill passed by the Senate.

It became clear as the conference proceeded that House Democrats did not want this bill. They were not interested in including any provisions that the Senate had thought were important to authorize, for example, the establishment of new American schools. That was included in the conference in Charlottesville as one of the ways to help improve education in America. The Governors and the President, we all remember, met in Charlottesville to talk about establishment of goals for the future for education in America, how do we improve our schools.

One of the ways was to get the Federal Government to loosen up its regulations on how Federal funds could be spent and let local communities, individual school districts, local administrators, teachers, the private sector get involved in trying to come up with new and better ways to teach our children, to develop new schools for the future.

So, this bill was an opportunity for us to cooperate in the education reform effort and loosen up some of the Federal strings that had been attached to Federal funds that had been allocated to elementary and secondary education in the past.

But House Democrats would not have any of it. They refused to include even the use of the words "new American schools" in the bill. Wherever that appeared in Senate language, it was stricken and no consideration given to reconsidering that decision.

It seems to me, Mr. President, that we ought to recognize that this conference report does not reflect a compromise at all. It does not include important Senate provisions, because the House Democrats would not agree to any compromise on those reform provisions in the Senate bill.

So this conference report should not be considered by the Senate. Next year the Elementary and Secondary Education Act comes up for reauthorization. We will have another opportunity next year, because that is legislation that I am sure the Senate will consider. We will have hearings. We will get input from those who are interested in education reform. We will make a new effort next year to get a better bill after a conference with the House, which I hope will produce some compromise.

But I am very disappointed in the failure of this conference to produce a compromise bill. It is a bill that is not really supported by those involved in education back in the States. It gives the States more regulations, more controls than we already have on the efforts of those at the local level.

It seems to me this is really an effort in disguise to impose more Federal control over local decisionmaking than we have had before. The Federal Government contributes only 6 percent of the money that is used for education back in the States, yet it wants 100 percent of the say-so as to how the funds will be used.

I am hoping the Senate will reject the notion of taking up and seriously considering this conference report. And so I hope Senators will vote "no" on the cloture motion.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

It is extraordinary to hear criticisms of this legislation, saying this program is a top-down program, from those who are supporting the administration's program that would have the Secretary of Education select 535 programs and 535 school districts. Talk about a top-down program, you have it there, unless top down does not mean that. The administration's approach is 535 programs in 535 congressional districts. If that is not a top-down approach, then I don't know what is.

We have a formula program of grants to the States, and the emphasis is on competition among the local schools working through the LEA's.

Let me list the kinds of programs that are already taking place that we want to support, Mr. President:

In the State of Maine, they have a rural middle school. Teams of teachers and students spend 2 years together, and the teams control their own budgeting and their own scheduling.

You have in New Jersey models for ungraded schools with emphasis on K through 3. There will be team teaching, individual school development, and family participation. Head Start will be available to all eligible students by 1998. The first 2 years of the plan are focusing on teacher training in primary grades to learn how to devise interdisciplinary curricula. They are also looking at adding 40 days to the school year over the next two decades.

These are the things that this bill could support. In Rockdale, GA, after joining the Coalition of Essential Schools, the teachers and students redesigned the academic program to eliminate tracking. Textbooks are used only as supplements to lessons which are interdisciplinary, and they make use of computers for math and science tests and use essay questions even in math.

In Baltimore, 6 elementary schools in the Success for All Program have regrouped their students for 90 minutes each day where the youngest students are in classes of 15 and have intensive reading. It has been so successful that it has now spread to Philadelphia.

This is what we are trying to further. This is what we are trying to help. This is what we are trying to stimulate. We used these examples developing this legislation.

Mr. President, these are examples of strategies that we are going to support, and I think it is important to recognize that.

How much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has 6 minutes, 50 seconds.

Who yields time?

Mrs. KASSEBAUM. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Kansas has 8 minutes, 32 seconds.

Mrs. KASSEBAUM. I yield 8 minutes to the Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH].

Mr. HATCH. I thank the distinguished Senator from Kansas.

I can assure this body the business community would not support this bill. The National Alliance for Business certainly is a respected smaller group within the community, but I have to tell you many in the business community do not support this bill.

I also want to compliment our distinguished ranking member, Senator KASSEBAUM, for the work that she has done on this. I know how disappointed she is that we were unable to get together and have basically the Senate version of this bill. We all fought for and which was a compromise. S. 2, as passed by the Senate, was not everything the distinguished Secretary of Education wanted but, nevertheless, was so much better than what we have come up with in this conference report, which is a political exercise to try and get the President to veto an education bill so that they then can say that the President is against education.

It is really pitiful that we get one of the finest Secretaries of Education who is renowned for his work to improve education as a Governor, who is certainly considered to be a moderate, who has tried to work with our committee and with the House of Representatives for something that would create new American schools, and other innovative and break-the-mold-type approaches, and it gets dissolved into some sort of politics like this one.

This really bothers me. In 16 years of service on this committee, I have never seen a more politicized bill than this one. And it was very apparent when we went to conference that the House of Representatives, after gumming the bill up, was not going to accept any reasonable suggestion. In fact, I made reasonable negotiated suggestions to them that ordinarily would have been grabbed like that by those on both sides. They would not consider the slightest suggestion in any way, shape, or form. So this is a political exercise and I hope everybody understands that.

Now I have to say we have heard quoted by the distinguished Senator from Massachusetts about this bill being a breakthrough for the Federal Government. Well, I suggest that a breakthrough by the Federal Government is a breakdown of State and local control, and that is what this bill is.

Mr. President, this is an important debate because it is going to determine just where we go from here. I have to say that there is not a lot in this bill that the administration wanted. There are no real reform measures in this bill. Innovative educational ideas like new American schools or charter schools are not even mentioned in this bill.

We are told these ideas can be funded out of the small reserve fund left to the States, but no State education officials would even know that because there is not a mention of it in the bill. Nothing to encourage it. And that includes public school choice programs, which Governor Clinton supports. There was not one bit of a chance of having that included in this bill. There is nothing to suggest that any of these innovative suggestions that the Secretary has made even exists as an option.

The Senate passed its version of S. 2 which I was pleased to support. The distinguished Senator from Kansas supported it, as well as the distinguished Senator from Massachusetts. It was a bipartisan bill. We worked together, as we always do. It contained ground-breaking proposals to demonstrate educational flexibility.

But I would just like to say to my distinguished colleague from Oregon, Senator HATFIELD, that I think he would be very upset how the House of Representatives diminished the ed-flex proposal.

It is hard to have a concept for which you have worked so hard to be rejected out of hand.

But, here was a real reform that would have helped States and local school districts better target their resources. Instead of spending money to comply with certain program requirements, they could obtain waivers and spend the funds to meet other needs.

But, Senator HATFIELD would not recognize the vestige of it that is left in the bill, at least I do not think he would.

One can only speculate that the supporters of S. 2 only intend more of the same old thing for education. This, in my book, is an empty promise.

The second reason to reject this bill is this bill creates even more educational bureaucracy.

In my view, we ought to be getting the investment of those scarce resources we have into the classrooms as quickly as possible. This conference agreement plainly does not do that.

For starters, this bill authorizes $800 million in the first year. Not a dime of it will flow down to individual schools. It will go to States for a year's worth of planning activities.

If parents think that their childrens' schools are going to see any quick improvements as a result of this bill, they can forget it. That is an empty promise.

Well, how about the second year? Nothing in the second year either. In the second year, the $800 million authorized would flow to States and then to local education agencies [LEA's] for planning.

Mr. President, I am all in favor of planning, but this strikes me as just a little ridiculous. Two years worth of planning assumes that State and local education agencies, Governors, legislatures, or school boards have never given a moment's thought to their educational needs and how they would like to address them.

Now, how about that planning process? Let me show it to you. I believe my colleagues will agree that the conferees should have stuck with the Senate bill.

This chart shows the procedure States and local education agencies would have to follow, as outlined in the conference report and how it works. It looks like a roadmap of the United States. You start here, go to there, here, here, here, here, here, here, then up here, through all of these various program requirements right down to all of those.

It is so complex that one has to wonder just what in the world are we trying to do bureaucratizing the educational establishment even more than it is now. This is done by devotees of the Federal Government. And it is done to impose the Federal Government ultimately upon the backs of public schools. And I have to tell you, this is the beginning of a Federal takeover of our schools.

Now that is going to be refuted, but I do not think so. If you look at what this really says, you are going to be concerned.

Now, we are going to make the States establish duplicate school boards and commissions and advisory councils. Why is any of that necessary?

Why are we forcing State and local education dollars—not to mention the dollars allocated by this bill—to be spent on planning and not on kids in the classroom?

I am also very concerned about national school delivery standards, which will basically prescribe to every school district in the United States how to run their schools.

National school delivery standards could include, for example, minimum per pupil expenditures, maximum student-teacher ratios, minimum teacher salaries, number of books in the library, and so forth.

And some States may or may not be able to meet what the Federal Government thinks are the standards they should meet.

National school delivery standards developed by tax dollars sound very reasonable. They say it is really up to the States to adopt them. But this is the beginning of Federal control of education.

There is a lot more I have to say, but my time is nearly up. But before I conclude, let me share a letter from 10 State Governors expressing their oppo-

sition and concern about this conference report:

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
*Columbia, SC, September 30, 1992.*

Hon. EDWARD KENNEDY,
*Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.*

DEAR SENATOR: At the Charlottesville Education Summit in September of 1989, the Nation's governors and the President agreed to institute a process to establish performance-based education goals for the nation and a way to hold ourselves accountable for progress toward those goals. Legislation currently before Congress, the conference version of S. 2, is framed around the goals and the bill has been characterized as furthering the governors' education agenda. It does not.

Since the Summit, governors have been active in promoting a national education agenda that is based on the national goals and high standards, but quite specifically relies on state and local strategies to achieve them. Our emphasis has been on performance and outcomes, not programs and input. Unfortunately, the conference version of S. 2 totally reverses that emphasis by including language requiring states to adopt school delivery standards as a condition for receipt of federal funds. From a gubernatorial point of view, S. 2 is fatally flawed in several other ways and could in fact stymie our efforts to achieve real results-based education reform.

Today, the National Education Goals Panel, a group of eight governors, four Members of Congress and two members of the Administration, released the second of 10 National Education Goals Reports. The Panel represents a fairly unusual if not unique experiment in federalism and it is making credible progress in an important domestic policy area. The process has not always been easy, but the panel does its work in a bipartisan way, operating in the spirit of consensus. By contrast, S. 2 does not reflect this cooperative approach.

Many of us have worked with the Congress through the National Governors' Association and others in trying to craft legislation that would further the governors' reform agenda, not stifle it. And, in fact, the original Senate-passed version of S. 2 would have done that. We are deeply concerned, however, that passage of this current version of S. 2 will cripple future opportunities to produce real reform legislation, and we urge you to oppose this Conference Report.

Sincerely,

Tommy Thompson, Governor of Wisconsin; John Ashcroft, Governor of Missouri; John Engler, Governor of Michigan; Jim Martin, Governor of North Carolina; Norman Bangerter, Governor of Utah; Carroll Campbell, Governor of South Carolina; Terry Branstad, Governor of Iowa; Arne H. Carlson, Governor of Minnesota; Jim Edgar, Governor of Illinois; Peter Coleman, Governor of American Samoa.

Let me reiterate what the Senate bill was. Just a very simple plan that would have worked. From this chart the application process goes from right down there, to right there and right there. There are basically only three steps. But to be fair, we put in every little step in the overall process, and it amounts to eight steps. So compare that with the hobgoblin of Federal bureaucratese—found in this conference report, completed without incorporating one suggestion from this side.

How can anybody vote for this and call it an education reform bill?

There is not going to be money for this bill to begin with. This is a fancy charade that we ought to vote down here today. And I hope all of our colleagues vote against cloture here today because basically it is the only way that we can stand up for States and local school districts in the States.

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

Mr. KENNEDY. Mr. President, how much time remains.

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes and 42 seconds.

Mr. KENNEDY. Mr. President, as pointed out in the earlier debate, the opponents of this legislation somehow are suggesting that this is a Federal takeover. What we have incorporated in this legislation is that the resources go to the States in formula, and that the local schools or the local LEA's will make application for competitive grants. Those competitive grants will then be decided on by a peer review operation or an organization that, based on what will strengthen and improve academic achievement, will make recommendations.

That was in the bill that passed the Senate. And it is in the conference report.

Let us be crystal clear on what is at stake with the vote on cloture for the Neighborhood Schools Improvement Act.

A vote against cloture is a vote to kill this bill for 1993. It is a vote against the establishment of National Education Goals and Federal policies to achieve them.

It is a vote against the establishment of a national education goals panel with two-thirds of its members being State legislators and Governors. It is a vote against establishing voluntary national standards for education. It is a vote against development of assessments. It is a vote against deregulation and flexibility in the administration of Federal education programs.

It is a vote against an $800 million program for individual school restructuring and school system change with decisions made at the State and local level, not by the Secretary of Education. That is what a vote against cloture means. That is what is at stake in this cloture vote.

I urge my colleagues to join in voting for cloture so there is an opportunity for the will of the Senate to be exercised. Let us not lose, as we did in 1990, the opportunity to act on an essential Elementary and Secondary Education Reform Act.

Let us not lose the opportunity to transmit this bill to the President for his choice as to whether he will sign a bill with his national goals, standards, assessments, flexibility, and restructuring schools programs or veto it.

I wish that we knew where the President stood on this legislation. We know where the Secretary of Education stands. But we do not know where the President stands. This is probably the first education bill that I have seen on the floor of the U.S. Senate where we have not had a position from the President of the United States. We know where the Secretary is. But from someone who wanted to be the education President, why do we not have some message to know where he stands on this program?

Mr. President, I hope the Senate will enact cloture so we can make an important step in terms of reforming the schools at the local levels in this country.

The PRESIDING OFFICER. The Senator from Kansas has 40 seconds remaining.

Mrs. KASSEBAUM. Mr. President, I would like to say I know where the President stands on this measure. The President stands for sound, sensible education reform. He cares a great deal about elementary and secondary education and the ability to be innovative, the ability to draw communities together and to establish what they believe important for education.

I feel strongly that this cloture vote is an important vote. We should not proceed ahead with this bill at this time. I strongly urge my colleagues to vote no on cloture, because we will have the opportunity, within only months, to address these same issues with the reauthorization of the Elementary Education Act. I yield my time.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes and 30 seconds.

Mr. KENNEDY. I yield the remaining time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I have to confess when my friend Senator HATCH was talking about this bill I did not recognize it. I think there are three fundamental thrusts in this. One is to promote voluntary national standards so that we can have in other fields what the teachers of mathematics have had—some standards.

If, for example, the Presiding Officer, Senator LIEBERMAN, were suddenly a school administrator and he has to hire a French teacher—perhaps he is an expert in French but I am not aware of it if he is—how does he know whether that French teacher is competent?

So this bill suggests that we have voluntary national standards in other fields. I think that is a significant step forward.

Second, it has innovation. It did not take in the conference the President's

title "New American Schools." Frankly, I cannot get excited about that one way or the other. But that is a compromise that was made. But there is innovation.

And the third thing that was rejected is assistance to private schools. Frankly, we have two or three States that are now experimenting in this area. We have a 50-State system, so that we have laboratories. We do not need to make national mistakes. Let us not rush into this area of aid to private schools.

My feeling is that this is a solid piece of legislation. Senator HATCH says there is no quick improvement here. Perhaps no quick movement, but I think substantial improvement, particularly in promoting voluntary national standards.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senate majority leader.

Mr. MITCHELL. Mr. President, I ask Senator KENNEDY if he would yield me the rest of his time and then I will use a brief amount of leader time.

Mr. KENNEDY. Mr. President, I yield such time as remains.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, for the second consecutive Congress, we have the opportunity to approve legislation which will begin the process of national education reform. But again, for the second consecutive Congress, we face obstruction designed to kill the bill.

I hope today that we can invoke cloture on S. 2, the Neighborhood Schools Improvement Act, and end the obstruction that has prevented this good bill becoming law.

Ten years ago, the National Council on Excellence issued a report entitled "A Nation at Risk," which alerted all America to the urgent need for change and renewal in our education system. The second graders of 1982 are this year's high school graduates.

In 1989, at the education summit, the Nation's Governors agreed on a series of explicit education goals. The President endorsed those goals. The high school freshman class of 1989 are this year's high school graduates.

The majority in the Congress responded to the call of the Nation's Governors in 1989.

The education reform bill of the 101st Congress codified the Governor's goals. It would have been the first step in education reform. Instead, a minority of Republican Senators blocked action on it.

We risk the same outcome today. A minority of Republican Senators may again block action. If they do, that will condemn this year's freshmen, this year's third graders to an education system without the resources or the leadership needed for reform.

We have the opportunity today by stopping this filibuster on this legislation to act on the political promises of education reform which everyone is making.

Let us be clear. A majority of Senators favor this bill. It is a minority that is preventing action on the bill.

Our children deserve better than empty promises and grand speeches. We owe them more. The neighborhood schools bill is our chance to make good on those promises and act on those speeches.

The bill codifies the national education goals endorsed by the Nation's Governors at the 1989 education summit; it encourages the development of models for testing and assessment in critical academic areas—math, basic science, history, and English. Without tests to measure student achievement, a school cannot know if its reforms are working; parents cannot know if the school is giving their children the teaching they deserve.

For the first time in the history of Federal aid to education, the neighborhood schools bill makes funds available directly to schools, as opposed to specific students, or student populations. Funds are designed to go only to States and schools that have locally developed reform programs. Instead of top-down directives, there are incentives for grassroots change.

It was interesting to hear the comment about Federal bureaucracy. The President's bill, the bill supported by Republican colleagues, would have had all of the crucial decisions made by the Secretary of Education, a Federal official. This bill has the decisions made by State and local officials. That is one reason why the Secretary of Education is against this bill. He wanted the President's bill, which would have centralized decisionmaking in the Federal Government, in the person of the Secretary of Education.

So the argument turned the facts upside down. The bill that would centralize control at the Federal level in the person of the Secretary of Education was the bill proposed by the President. The bill that will decentralize authority, that will permit decisions to be made not by the Federal Government, not by the Secretary of Education, but by State and local officials is the bill now before us and that is why the Secretary of Education is against it.

So, if you want to vote to decentralize authority, if you want to vote to give authority to State and local officials, you will vote for this bill. If you want to vote to give all of the power to the Federal bureaucracy, if you want to give the Secretary of Education the crucial decisionmaking process, then you will vote against cloture. It is as simple and straightforward as that.

This bill embodies four of the President's education reform proposals and a modified version of the fifth proposal.

I urge my colleagues to reject obstructionism. Our Nation deserves better. Our children deserve better. Our parents deserve better.

A vote for cloture will be a vote to stop the endless circular debate over whose reforms are real reforms and start the process of change that is crucially needed. Our schools and our students need action, not more talk. Let us end the filibuster. Let us end the talk. Let us vote and start action today.

Mr. President, I yield the floor

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given just 1 minute of the leader's time.

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

Mr. HATCH. Mr. President, I have been interested in the distinguished majority leader's comments, but, the issue is not whether the Secretary of Education was going to win on this issue or not. He was not. The issue is whether the Senate bill, which was a reasonable bill, was put together in a bipartisan manner. The Senate bill does not have all this bureaucracy. The Senate bill was given no consideration by the House of Representatives. And I am sorry to report to you, it was not given one ounce of consideration by the House of Representatives because they wanted to make this a political football and they wanted to play politics with this.

I tried to get a bipartisan bill. We have done it on this committee for 16 solid years. We have put together bipartisan education bills for 16 years, Republicans and Democrats. It has been a matter of course. This is the first time I can recall where we have gone into it like this. Even more important is the content of this bill. We are going to have the Federal Government making suggestions for voluntary school delivery standards for the State and local school districts. That is the beginning of the takeover of our State and local control over our schools.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I will just take a moment to make a final response.

If this were to deprive local officials of their authority and concentrate it in the Federal Government, what would you expect the response of local officials to be? Why, of course, they would be against it.

But let us look at who is for it: The State school officers, the State board associations, the school board associations—all local officials—the Council of City Schools; the Parent Teachers Association; the Elementary School Principals Association; the Secondary School Principals Association. Vir-

tually every local school official in the country favors the bill that our colleagues say takes authority away from them and gives it to the Federal bureaucracy.

It is the exact opposite of the facts. This bill empowers local school officials. The Republican bill empowers the Secretary of Education. That is the difference between the two bills. If you are for local control, you vote for this bill. If you are for Federal control in the person of the Secretary of Education, you vote against this bill.

Mr. LIEBERMAN. Mr. President, I note that the version of S. 2 reported out by the conference committee does not contain explicit language allowing States to use a portion of the funds that can be held at the State level for the startup of new, innovative public schools, including charter schools, and I want to clarify the committee's intent regarding this program. Chartered public schools offer a significant opportunity for educational improvement by enabling those who know best what our children need to succeed and how to provide it, parents and teachers, to create new and diverse public schools. Chartered public schools can be tailored to meet the particular needs of a community or a group of students. Because they enter into an outcomes based contract with the chartering agency, each school will be held accountable for their performance to the Government, their students, and the parents who decide to send their children there.

Despite the fact that mention of charter schools is not explicit in the conference committee's agreement on S. 2, I understand that under the agreement States may still use available funds to develop new types of public schools. I would like to engage in a brief colloquy with the distinguished Senator from Massachusetts, Senator KENNEDY, to confirm the intent of the language in the conference committee's agreement regarding allowable State uses of funds authorized under section 8305(B)(2)(a)(iii).

I understand that States are authorized to use not more than 20 percent of the total cost of the State's program in the second and succeeding years following enactment for several purposes including "other innovative school reform activities that are consistent with such State's plan and subject to peer review." I ask the Senator from Massachusetts if it is his intention that a State could use a portion of the money set-aside pursuant to this section for startup funding for new, innovative public schools, including charter schools? This would assume, of course, that providing State-level startup funding for charter schools is consistent with the State's plan and subject to the required peer review.

Mr. KENNEDY. Yes, given that assumption, these funds could be used for the startup of such new schools provided that the new schools receiving funds are public schools operating under the authority of a State or local education agency, nonsectarian in their programs, admissions policies, employment practices, and all other operations, and not affiliated with a nonpublic sectarian or religious school or institution. The committee's intent was to provide general program guidance to the States allowing maximum flexibility to the States to design their own programs consistent with the requirements we have discussed.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Massachusetts for the assurance that it is his intention that startup funding for new public schools, including charter schools, will be allowable State uses of funds authorized under section 8305.

Mr. D'AMATO. Mr. President, I wonder if my colleague from Kansas, Senator KASSEBAUM, would be willing to engage in a brief colloquy regarding a program, known as Parents as Teachers [PAT], that was included in the House version of S. 2 but not, as I understand it, in the Senate version of this bill. I have reviewed the bill language on the program and have spoken to a number of my constituents in New York and have some concerns about this program.

My concerns center around the requirements that in some PAT programs parents receive and participate in home visits from an educator, social worker, or other State representative. I know a number of my constituents are troubled by reports of abuse of this requirement in States which already have this program. They are concerned that under certain criteria that have been established, they and their families might be labeled as dysfunctional or even have their children removed from the home.

I would like to ask for some clarification on this matter from my colleague, Senator KASSEBAUM, who serves as the ranking minority member of the Education, Arts, and Humanities, Labor and Human Resources Committee.

It is my understanding that the PAT Program proposed by the House is no longer in the conference bill. I would ask my colleague from Kansas whether this is, in fact, the case.

Mrs. KASSEBAUM. Mr. President, I can assure my colleague from New York that the Parents as Teachers Program, as included in the House version (H.R. 4323) of the Neighborhood Schools Improvement Act is no longer included in this conference bill.

Because the Senator from New York and a number of our colleagues had concerns about this program, we took a careful look at this program and decided that the best course of action for now was not to include the program in the conference bill. In its place, we substituted a directive—an assignment, actually—to the Secretary of Education to conduct a review of the existing evaluations of this program. A number of States already have programs of this type. The review is simply a literature-type review—no Federal program is being established. This review is to be completed and presented to the Senate for its consideration in 6 months.

Mr. D'AMATO. So while we will have an opportunity to consider the Secretary of Education's findings in 6 months, at this point, the bill does not establish a Federal program. Am I correct in my understanding?

Mrs. KASSEBAUM. Yes, the Senator from New York is correct.

Mr. D'AMATO. I thank the Senator from Kansas for this information. I agree that this is a reasonable way to proceed.

Mr. METZENBAUM. Mr. President, I rise in support of the conference report on the Neighborhoods Schools Improvement Act.

We are all aware of the serious problems facing our Nation's schools, and the need to improve our educational system to meet the challenges of the 21st century.

This legislation represents an important step toward this end. It demonstrates our commitment to the national education goals, establishes a program to help our neighborhood public schools achieve these goals, and provides a means for determining our progress.

The core of the bill is the Neighborhood Schools Improvement Program, which will provide sustained assistance to help States and local public schools undertake comprehensive, systemic reform. Neighborhood public schools, working in cooperation with teachers, parents, and the local community, will decide what they need to do to improve student achievement. Schools may use funds for initiatives which will result in comprehensive schoolwide change, including such things as early childhood education, school-based management initiatives, professional and staff development, parent education, and involvement programs, expanded use of technology, alternative programs for school dropouts, and class-size reduction programs.

Unlike the administration's plan to create 535 new American schools, this program is designed to help improve education for all American students in all American public elementary and secondary schools. Its focus is on meeting the real needs of our public school system.

And, Mr. President, I believe that support for our public schools is the best investment we can make in the future of our Nation.

That is why I so strongly opposed the President's proposal to divert scarce Federal resources from our public schools to fund a voucher program for

students attending private and religious schools. I believe that proposal is bad public policy, which would unwisely break down the barrier between church and State and distract our attention from the real needs of our public schools.

I am pleased that during consideration of the Neighborhood Schools Improvement Act, both the Senate and the House voted decisively to reject this ill-advised plan.

In this regard, I want to call special attention to the language in this bill that emphasizes that, with the exception of section 8310 regarding information and teacher training, none of the authorized funds may "directly or indirectly benefit any school other than a public school." I don't think we can make any plainer our intention that we are authorizing funds for public schools only. We are not authorizing funds for private schools, nor to create new private schools, nor for school choice or voucher programs involving private or religious schools.

Now some in the administration, in proposing choice programs involving private schools, have argued that they should be permissible since they provide money to families rather than institutions, and after all, they say, public education ultimately benefits. The Senate has rejected that proposal, and that reasoning, and the language I have called attention to is designed to ensure that the Federal funds we authorize in this bill cannot be put to those purposes.

The words "directly or indirectly" mean that the money cannot be used for private schools, whether it flows there through the Government or through parents. It cannot end up in the hands of any educational authorities, other than public school authorities. That is what this body means by this language.

I would like to ask the distinguished chairman of the Labor and Human Resources Committee if that is the effect of the provision I have cited.

Mr. KENNEDY. Yes; the Senator is correct. In January, the Senate decisively rejected an amendment to authorize a private school choice program. The provision you have quoted will ensure that none of the funds authorized by this legislation may be used for voucher programs involving private schools.

Mr. METZENBAUM. I thank the Senator for his confirmation of this important point. I urge my colleagues to support the conference report.

SCHOOL HEALTH PROGRAMS

Mr. DURENBERGER. Mr. President, today, we know that Americans smoke too much, abuse alcohol and drugs, suffer from violence and accidents, engage in unsafe sexual activity, fail to follow healthy diets, and exercise too little. Too many babies are born to unmarried teenagers who have not received adequate prenatal care. Too many of our children are uninsured and lack access to care.

The consequences of personal behavior can be seen in the hospital emergency room and the neonatal intensive care unit. The hospital is asked to provide extraordinarily expensive medical solutions for the consequences of the decisions we have made about our personal behaviors.

We are learning that we can prevent many of these costly diseases through personal choices and community action. Many of the expenses associated with preventable disease can be eliminated if individuals make healthy lifestyle choices. Family and community support for healthy lifestyles, however, must be cultivated at the earliest possible age. This support must begin at home, with families, but must also be emphasized in the nurturing environment of schools.

Mr. President, I rise today to express my desire that we foster healthy children so that they are able to learn and thrive in school. I want to emphasize my commitment to address this important issue in the next session of Congress.

Support for school health services is growing in our States and communities. My distinguished colleagues and I must make every effort to eliminate obstacles to that support and to provide assistance for the development of community-based school health programs.

This important concern is one which I share with many of my distinguished colleagues, Mr. President. Several months ago, the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, introduced the Comprehensive Services for Youth Act of 1992 to assist States and communities to establish integrated health and social services in schools.

I was enthusiastic about this bill because it was consistent with my goals of streamlining health and social services and improving access to children so they are ready to learn.

I was unable to cosponsor this bill, however, because I did not want it to serve as a vehicle for circumventing current requirements regarding Federal funding for abortion. The broader objectives of this bill were too important to compromise with a protracted discussion about abortion.

On July 28, 1992, the Labor and Human Resources Committee held a hearing on the bill. One witness at that hearing was Donna Zimmerman, the executive director of Health Start, a pioneering school-based clinic program in St. Paul, MN. The program provides comprehensive health care services to students who would not otherwise have access to care, and helps students integrate health, wellness, and responsible decisionmaking into their lives.

During the hearing, Donna and several other witnesses talked about the importance of local flexibility and the need to work with parents and teachers to design appropriate school health programs. Several witnesses indicated that they were currently using funds from the maternal and child health block grant to support their school health programs.

This testimony led me to propose an amendment to title V of the Social Security Act to encourage States and communities to use the maternal and child health block grant to support school health services and to increase the authorization for appropriations for this important program.

Mr. President, at least 24 States are currently using MCH block grant funds to support school-based health services. Since the 1930's, these funds have provided resources to support basic school health programs in most States.

In my own State of Minnesota, both the Minneapolis and St. Paul school districts have made school-based clinics a high priority for a number of years. The Health Start Program opened the doors to the first school-based clinic in St. Paul in 1973 and it now serves over 3,000 students in its school-based clinics. This program provides a one-stop shopping model of comprehensive health and social services based on the need of each school's community.

Mr. President, with support from Governors Rudy Perpich and Arne Carlson, the Minnesota Legislature initiated a State grant program to encourage colocation of services in schools. Now in its fourth year, this program has provided both planning and implementation grants to several dozen communities all over the State.

Colocation of services in schools is also a high priority for Minnesota 2000, our State's response to President Bush's America 2000 initiative. And, colocation of services is a major goal of Minnesota's winning entry in the grant competition announced recently by the New American Schools Development Corporation.

Finally, Mr. President, Minnesota leaders—from Governor Carlson to Minneapolis Mayor Don Fraser to Honeywell CEO Jim Renier have made our State a leader in redesigning and colocating a broad range of health, nutrition, education, and social services for children from conception forward—conveniently located and accessible to all.

Two examples of that leadership are the Minneapolis United Way's Success by Six Program—long championed by Honeywell CEO Jim Renier—and the neighborhood family resource center proposal that has been advanced by Minneapolis Mayor Don Fraser.

Mr. President, based upon these innovative efforts in my State and support from the Association of Maternal and Child Health Programs, I worked with

Senators HARKIN and BENTSEN to seek authorization for additional appropriations for the maternal and child health block grant and to include reference to school health in the authorization language.

Because this amendment was not time-sensitive for the closing days of this Congress, it was not included in S. 3274, the Medicare and Medicaid Amendments Act of 1992 and additional funds were not available for fiscal year 1993 appropriations.

Mr. President, I continue to be committed to supporting comprehensive school health services. During the next session of Congress, I will be exploring effective ways to expand funding for comprehensive health and other services through schools. I will also be working with Senator KENNEDY and others who share my support for longer range and more comprehensive ways of encouraging colocation of services within the context of next year's reauthorization of the Elementary and Secondary Education Act.

A number of my colleagues in both parties have expressed an interest in considering legislation that would promote colocation of health and other services in schools in a more proactive and comprehensive manner.

As we move ahead, there are a number of issues that will need to be explored. School health programs must become self-sufficient through collection of third-party payments, including Medicaid and EPSDT. These programs should also be designed to promote continuity of care by establishing relationships with managed care programs.

Mr. President, I intend to hold a series of meetings and public forums in Minnesota on colocation services through schools later this fall. I hope to return next year more knowledgeable about the problems facing our children in school and about creating local solutions.

I intend to translate that knowledge into new legislation that builds upon my commitment to streamlining Government support to States and communities, and supporting local flexibility to design appropriate, integrated school health programs.

Mr. ADAMS. Mr. President, I rise in support of the conference report on the Neighborhood Schools Improvement Act. I am pleased to have been an original cosponsor of this legislation. The bill is an important step toward addressing education reform in the United States.

The Congress will reauthorize the Elementary and Secondary Education Act next year. That reauthorization will include a thorough review of all Federal programs that affect our elementary and secondary schools. The conference report before us now is an appropriate foundation for education reform in our public schools. The bill includes several important provisions to improve education at the local level. Funds are provided to States for grants to local districts and schools. These grants will assist local districts to develop reform initiatives for improving academic achievement and student performance.

Critics of this legislation will continue to express their frustration at the exclusion of President Bush's private school choice proposal—a proposal which I oppose. The Senate has been very clear on this issue. During consideration of S. 2 earlier this year, the Senate defeated a private school choice amendment by a vote of 57 to 36. Public funds should not be used to support private, parochial, or religious schools. We must continue to provide the necessary support for our Nation's public schools—schools that must take in all students, not a select few. The Neighborhood Schools Improvement Act is an important step toward that goal.

During this year when education reform has been an issue of great concern to Americans everywhere, and a priority of the Congress, I am disappointed to learn that the education President is likely to veto this bill. The House approved the conference report on Wednesday. I urge my colleagues in the Senate to join me in support of the conference report on S. 2.

Mr. SIMPSON. Mr. President, I rise today to oppose the conference report to S. 2, the education bill. I do not believe this legislation, in its present form, will empower schools to solve the problems that plague our Nation's educational system, nor is the final conference report a true reflection of the original legislation that was passed by an overwhelmingly majority of the Senate, including me, in January.

The crisis in our schools has not diminished. Children's achievement test scores are stagnant or in decline, violence in schools is on the upswing, and local revenues that pay for the bulk of educational activities are decreasing. There is no benefit in pointing fingers at who is to blame for this state of affairs, but it is clear that creativity and innovations are needed.

We have innovative efforts at the local and State level, but the Democratic-controlled Congress has been loathe to legislate a policy that would be supportive and responsive to those grassroots initiatives. The original version of S. 2, while not as far-reaching or innovative as the President's America 2000 education plan, did offer support and encouragement to local school systems. That is why I decided to support it in its final form earlier this year.

I did not believe the House education bill was anywhere near as sound a policy as the Senate bill, and I was hopeful that the final conference report would be more reflective of the Senate version than the House—but that is not the case. However, a cursory glance at the report shows that the $800 million worth of authorizations included in the agreement creates bureaucracy and pays only lip service to the problems our schools face and does more harm than good to our Nation's schoolchildren.

This report does not enjoy the support that the original version of S. 2 did. In fact, the House is not all that happy with the final version of the bill. There was even a motion on the floor to recommit the bill to conference. That motion failed along largely party lines—but the final vote was 166 to 254. I would not call that a vote of confidence for the conference report by any means.

I view the report as an attempt by Members on the other side of the aisle to ram a very bad education bill down the President's throat—all in the name of improving education. House and Senate Republicans view were wholly ignored during conference, and consequently, we have a report that is completely partisan. That is simply no way to legislate. So now we are put in the position of voting on a bill that does nothing to help our schools and is clearly unfunded. There is no private school choice in this bill. There is no recognition or reward for schools that are reforming or improving their performances. There is an awful lot of bureaucracy—a ton of it—and a mandate for States to pay for programs they have not even chosen to implement—at a time when they can hardly round up enough money to pay for existing programs.

The fact is there was an opportunity for the Congress to do something truly proactive on education. We could have debated the President's education bill. His plan was the first one introduced, but it was never debated. Why? Because the House Democratic leadership knew it was an excellent plan and that the President could garner the bipartisan support needed to get the bill passed.

The President has kept his promise to do something about education. He has signed 10 major pieces of education legislation during his term. He responded to the Nation's education problems with his America 2000 plan. It encourages and rewards change. But the bill was never considered on the floor of the Senate or House. It was never even reported out of committee because the House Democrats didn't want the Bush bill to become a law and that is exactly what would have happened if the process worked the way it is supposed to. Instead, it was manipulated by the Democratic leadership.

Let's be honest about all this: this conference report is an obvious attempt to draw lines on who is for or against education improvement. I think everyone would say they are for improvement. But when we legislate policy that does not include the ideas

of all who have a vested interest in the process—and Republicans were surely not included in the conference committee decisionmaking process—then we are using our children as a weapon in the battle for votes. They deserve better than that. They deserve laws that will help free teachers to teach and parents to make informed choices. They deserve the equality of school choice and the chance to excel.

During the next session of Congress, we will take up consideration of the Elementary and Secondary Education Act. A thorough review of every Federal education program is already in progress by the Department of Education and the Congress. I believe we will have a better opportunity at that time to legislate a policy that will truly help our children. I urge my colleagues to join me in voting against this conference report.

Mr. GORTON. Mr. President, I would like to express my opposition to the conference report accompanying S. 2. I cannot support a bill that is supposed to bring fundamental reform to our schools, but instead plugs $800 million into business as usual programs.

Although it codifies the six national education goals adopted by the National Education Conference in 1989, it does little to achieve them. It fails to offer fundamental education reform to those who seek it—Americans who want the best for today's students.

School choice, for example, is a promising concept that has achieved considerable success in my State. It provides powerful incentives for teachers and administrators to demonstrate academic excellence by allowing parents to choose their children's schools. Choice extends educational opportunities to disadvantaged families who desperately want a better life for their children, and who know that a good education is the key. Choice is the ultimate path to accountability in our schools, and S. 2 has failed to include it as an avenue for reform.

Another failure of S. 2 is its deletion of the new American schools concept which would have given each congressional district the opportunity to "break the mold" and reinvent American schools from scratch. This program fosters increased involvement by parents and community leaders with teachers and students. Their combined efforts could develop schools that reflect the best of teaching, learning, the educational technology. S. 2 has failed to extend this unique opportunity to communities who seek school improvement.

The programs that remain in this final version of S. 2 are not new, and they assuredly are not innovative. The education reform legislation we adopt should give specific recognition to truly innovative reform ideas. The opportunity to make significant improvements in our children's education will be lost if we continue to shy away from bold new concepts such as these.

My State has not only taken a step towards reform by adopting choice programs, but has established a program to award innovative educational projects. Washington's Schools for the 21st Century are connected by an electronic network, which enables teachers to discuss ideas and share lesson plans. The program supports a 10-day supplemental contract which, in effect, sets aside 2 weeks for school-level planning, staff development, and instructional improvement. Common themes among projects include outcome-based education, integrated curricula, cross-age grouping of students, parental involvement, and technology.

"Washington's Schools for the 21st Century" are light-years ahead of DC bureaucrats when it comes to education reform. How can I ask Washington taxpayers to pay for Federal education programs that do not take them forward, but bring them back to "business-as-usual" education?

Educators want to implement innovative reform programs that work. My State's educators have passionately taken on bold new programs. This legislation does not reward, commend, or offer support for their hard and spirited work. Instead, it forces them to return to education practices that have failed our students.

Federal education policy should correct problems that have faced educators for years. Overreaching bureaucratic mandates plague our education system and are burdensome to the extent that educators cannot do their jobs. Educators should be able to focus their attention on improving students' skills. They should not have to spend their time and energy interpreting Federal regulations.

Separate regulations and reporting requirements often result in chapter 1 students being removed from a regular reading period, moved across the room, and placed in a chapter 1 reading activity. This senseless interruption is dictated by regulations that harm, not help, chapter 1 students. S. 2 fails to address this frustrating problem.

The provision addressing regulatory flexibility—which is fundamental to any education reform—allows for only a limited number of waivers for a limited period of time for a limited purpose. We have agreed that too many Federal programs are burdened with detailed requirements on what schools can and cannot do with their funding. Yet this legislation opts to relieve only a small number of schools from that burden. Furthermore, those select 750 schools are forced to go through a maze of additional red tape if they are to participate in the waiver program.

If we choose to confront this problem, we should not address it through token national recognition. We should implement a policy that corrects it. Unless school officials can consistently expect flexibility from the Federal Government, these token waivers are of little or no benefit.

The President's America 2000 education reform strategy, however, will reduce the red tape that suffocates innovative teachers in thousands of schools. Because real education improvement happens school by school, teachers and parents in each school must be given the authority and responsibility to make important decisions about how the school will operate. Federal red tape must be cut.

America 2000 calls on the Government to remove Federal constraints that impede the ability of States to spend education resources more effectively. America 2000 asks that this opportunity be given to thousands of schools anxious to answer society's call for education reform. The timid regulatory flexibility proposal in S. 2 gives this opportunity to a mere 750 schools.

I asked educators in my State what single thing can Congress do to improve education. I got the same response from all those I asked: "Let us do our jobs." Their calls for regulatory relief ranged from rescinding specific reporting requirements to a ban on new programs that justify increased bureaucracy. These people who dedicate their lives to teaching should not be required to spend half of their time as administrative lawyers.

S. 2 does nothing to respond to their requests—instead, it heaps new layers on an already swelled bureaucracy. In the first year, the entire $800 million is allocated solely for planning purposes. Not one dollar of this money will go directly to schools, teachers, or students. It would take 1 year of Federal money and paperwork to squeeze any kind of direct support for our schools from this legislation.

Worse yet, by establishing national school delivery standards, the Federal Government begins to direct schools towards particular curriculum and instructional material. School delivery standards make an attempt at defining teacher quality and practices. This does not respect the traditional role of States and localities in providing education. Federal support should assist—not direct—State and local reform efforts.

As long as we continue to build and fund a bureaucratized education system, we cannot expect the results to be any different than they have been for the last decade—less learning, less creatively, and increased frustration.

The conference bill fails to acknowledge bold new reform strategies, it limits the scope of regulatory flexibility initiatives, and it creates a myriad of new bureaucracies.

Mr. President, I supported the original version of S. 2. I cannot support an unfunded initiative that guts the original version and which ultimately does

little to promote true reform. I will not support S. 2 in its final form.

Mr. BURNS. Mr. President, I rise to express my opposition to the conference report accompanying S. 2, the Neighborhood Schools Improvement Act. I have supported the Senate bill and voted for it three times. I believe strongly in the need to revitalize our education system. However, in my opinion, this bill does just the opposite and must be defeated.

It is a misnomer to call this the Neighborhood Schools Improvement Act when the only neighborhood that will benefit from this bill is down the street at the Department of Education. Once again the major constituency of the Democratic controlled Congress—the bureaucracy—wins out. This bill sets national delivery standards mandating the resources and conditions under which State and local education agencies should operate. It comes dangerously close to establishing the equivalent of a national school board, a notion which I find very troubling.

In other areas, this bill takes some positive steps toward reform, but then ties them down with redtape. It offers grants to State education agencies to reform local schools, but only if they appoint another level of bureaucracy and get the plan approved by Washington. By the time the grant money filters through the bureaucracy, the schools in our Montana neighborhoods will receive only 68 percent of the money. It offers freedom from certain regulations to a small number of local school boards, but only if they work their way through the bureaucratic maze of State and Federal approval. This is reform? It sounds like business-as-usual to me, Mr. President.

In sum, this bill steals the initiative for reform from the local school boards and puts it in the hands of the State and Federal Governments. It is on the local level that true reform can, and does, happen and I must reject this attempt to usurp their authority in the name of reform.

It is with great disappointment that I vote against this conference report. I only hope that next session we can break free from the grip of the bureaucracy and the special interests and pass true educational reform for our sake of our children and our Nation.

Mr. DODD. Mr. President, I rise in strong support of the conference report on S. 2, the Neighborhood Schools Improvement Act, which will provide communities across the country with assistance in restructuring their schools.

Frankly, Mr. President, I am a little stunned that we find ourselves in a fight this morning to save this bill rather than joining together with many from the other side of the aisle to vote in support of this bill—a bill which will assist States and schools across the country in improving their schools.

Just a little about what is actually in the conference report, as it seems there is some confusion on this point.

S. 2 codifies the six national education goals which were established by the President and our Nation's Governors—school readiness, student achievement, school completion, lifelong learning, achievement in math and science, and drug-free, safe, and disciplined schools. It provides for a standard setting process so that we can reach these goals and for the establishment of model assessments to measure our Nation's progress. These elements of the bill are noncontroversial—supported by the President, the Congress, by governors, teachers, and community leaders.

The heart of the bill is a $800 million formula grant program, which will provide every State in the Nation with funding to pursue school improvement and restructuring. The States will use these funds to make competitive grants to local schools to improve student achievement. The bill does not establish a new program with new Federal mandates—it is an invitation to communities to organize to improve their own schools. It says to parents, teachers, and business leaders if you have a quality plan to improve your children's education, we will help you.

The bill also establishes a demonstration program in educational flexibility, an idea strongly supported by the President. Under this program, 750 schools in ten States will assess the impact of waiving Federal regulations on student achievement. The program will demonstrate if schools can do a better job through an emphasis on results rather than on meeting the various regulatory and statutory requirements.

Just last month as schools began, I held a hearing in New Haven to talk about school reform and explore the success of the initiatives in my State. Over and over, when I asked witnesses about the Federal role in school reform, they talked about the importance of Federal assistance. But they didn't want advice, they wanted funds—funds that they could flexibly in their communities to make the improvements their communities identified. That's what this bill would do. It would empower communities to begin the fundamental restructuring which is so critical to our Nation's future.

Just this week the national education goals panels, which would be statutorily established with this bill, released its third annual report on the state of education in our Nation. Some of their figures were startling; 13-year-olds in U.S. schools were consistently outperformed by students from other industrialized nations in science and math. Sixteen percent of high school students were threatened with a weapon at school. Less than half of all preschoolers were read to daily.

In my State of Connecticut, the statistics also demonstrate the need for this legislation. Twenty percent of our students drop out. Eleven percent are from homes where English is not spoken. Of the 48,545 children born in Connecticut last year, over 8,000 had no prenatal care, nearly 5,000 were born with drug exposure. Each day, our schools are confronted with this reality—and our schools need our help.

But its not just our schools. Not only are we failing to secure a future for our own children, but also the future of our own economy. If you look at some of our major international competitors, with dropout rates near 1 percent, you must ask yourself, how we are going to compete in the high-technology marketplace of the 21st century.

Our school system was designed around an agrarian calendar—afternoons and long summers off for farm work. Basics were reading and writing and arithmetic, not trigonometry, and computer science. Our educational system, in many parts of the country, has just not kept up with the rapid changes in the economy of the world or this Nation.

In years past, a high school diploma opened many doors. Even without a diploma, a hard-working 16-year-old who left school could often find work to support themselves and their families, to purchase homes, and to provide for some financial security.

But the economy has dramatically changed, and in the next decade, less than 1 percent of new jobs will be available to people in this country who have less than a high school diploma.

There are many who are quick to blame others for the problems in our Nation's schools. They blame teachers, or parents, or the bureaucracy of government, or a failure of family values. The blame game is unending, but most would admit it is not the answer. We must all commit ourselves, regardless of what else we do in our lives, to working together to improve our Nation's public educational system.

We need to ask ourselves, as a people, who loses when a young person drops out of school; who loses when a middle-income family is unable to afford the skyrocketing costs of higher education.

If we believe that it is only the dropout, only the jobless, only the undereducated who are the losers, then, I believe there is little hope of changing our priorities in this country.

If, however, we understand that when a student stays in school, when a person has a good paying, decent job, and when a young person receives a college diploma or a degree from a community technical college, then we are all winners.

Reaching these goals is the challenge that lies in front of every one of us, and we can start right here today—by voting to support this bill.

During the waning hours of the last Congress, another education reform

bill came before the Senate and was killed by a filibuster similar to the one before us today. The Senate missed that opportunity to provide our communities with vital educational assistance.

The Senate cannot afford to make the same mistake again today. Our communities, schools, and children need our help. I urge my colleagues to join me in support of this bill.

Mr. SASSER. Mr. President, I want to take just a moment to commend the chairman of the Labor and Human Resources Committee, Senator KENNEDY, and the chairman of the Subcommittee on Education, Senator PELL, for their leadership for serious school reform.

The Conference report on S. 2, the Neighborhood Schools Improvement Act, has reached the Senate floor only because of their tenacity and tireless work. This legislation is not business as usual.

For the first time, Federal dollars for educational innovation will be passed through to individual schools. For the first time, schools have been recognized by Congress as the site for the most promising reform efforts.

The vast bulk of the $821 million authorized by this legislation will fund local school restructuring plans; plans collectively developed by principals, teachers, parents, and community representatives. I believe in this blending of Federal resources with local know-how. Therefore, I urge my colleagues to support the conference report on S. 2.

Mr. CHAFEE. Mr. President, I would like to take a moment to discuss the cloture vote on the conference report to accompany S. 2, the Neighborhood Schools Improvement Act. Earlier this year, I joined 91 of my colleagues in supporting S. 2. As approved by the Senate, the bill incorporated some new ideas, such as new American schools and regulatory flexibility. But I plan to vote against cloture today.

I think many of us agree that the conference agreement does not even come close to reflecting what the Senate approved. Much of what the Senate accomplished was dismantled in conference and replaced with provisions of the House bill.

The conference agreement makes no mention of new American schools, and the regulatory flexibility provision—which I think shows real promise in helping our schools achieve better results—has been scaled back severely.

So what we have here essentially is the House bill that requires States and local education agencies to establish advisory councils to develop State and local school improvement plans—a system that has the potential to stifle innovation by increasing unnecessary bureaucracy.

Further, it concerns me that the entire first year authorization of $800 million would be devoted to planning costs. If you really think about it, the title of the bill is somewhat misleading—the Neighborhood Schools Improvement Act—yet none of the funds in the first year go to local schools.

Mr. President, there clearly is cause for concern over what is happening in our educational system. Studies show that our high school students lag behind those of other nations in math and science ability, and our graduates often lack the skills necessary to obtain entry level employment.

These and other painful observations have led to a desperate call for reform. As you well know, those in government will sometimes try anything to achieve better results. And that is what we have here today.

This certainly is an ambitious plan to embark upon just three months before Congress will begin its work to revise and extend the Elementary and Secondary Education Act [ESEA], and when many of the ESEA programs are not adequately funded to serve all eligible students. And it is my understanding that the conference committee completed its work on the Labor-Health and Human Services appropriations bill for next year, which does not include any funding for programs that would be authorized under this conference agreement.

The solutions to the problems in our Nation's education system will not come easily and reform will not be achieved overnight. We have a tremendous responsibility to ensure that our Nation's students receive a quality education—it is in our Nation's best interest. But we should not vote today just for the sake of saying, "Well, we voted for an education bill this year."

Mr. President, as I mentioned, my decision was not an easy one. The conference agreement does take some steps in the right direction, but it does little to guarantee that innovative ideas will receive attention.

## CLOTURE MOTION

The PRESIDING OFFICER. The clerk will now 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 the conference report accompanying S. 2, the education bill:

Paul Simon, Herb Kohl, Jim Sasser, John Breaux, Christopher Dodd, Harry Reid, Charles S. Robb, Daniel K. Akaka, Tom Daschle, Harris Wofford, Dale Bumpers, Richard Bryan, John F. Kerry, Max Baucus, David Pryor, Jay Rockefeller.

## CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

## VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the debate on the conference report accompanying S. 2, the Neighborhood Schools Improvement Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The yeas and nays resulted—yeas 59, nays 40, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—59

| | | |
|---|---|---|
| Adams | Ford | Mitchell |
| Akaka | Fowler | Moynihan |
| Baucus | Glenn | Nunn |
| Bentsen | Gore | Packwood |
| Biden | Graham | Pell |
| Bingaman | Harkin | Pryor |
| Boren | Heflin | Reid |
| Bradley | Hollings | Riegle |
| Breaux | Inouye | Robb |
| Bryan | Johnston | Rockefeller |
| Bumpers | Kennedy | Sanford |
| Burdick, Jocelyn | Kerrey | Sarbanes |
| Byrd | Kerry | Sasser |
| Conrad | Kohl | Shelby |
| Cranston | Lautenberg | Simon |
| Daschle | Leahy | Specter |
| DeConcini | Levin | Wellstone |
| Dixon | Lieberman | Wirth |
| Dodd | Metzenbaum | Wofford |
| Exon | Mikulski | |

NAYS—40

| | | |
|---|---|---|
| Bond | Gramm | Nickles |
| Brown | Grassley | Pressler |
| Burns | Hatch | Roth |
| Chafee | Hatfield | Rudman |
| Coats | Helms | Seymour |
| Cochran | Jeffords | Simpson |
| Cohen | Kassebaum | Smith |
| Craig | Kasten | Stevens |
| D'Amato | Lott | Symms |
| Danforth | Lugar | Thurmond |
| Dole | Mack | Wallop |
| Domenici | McCain | Warner |
| Garn | McConnell | |
| Gorton | Murkowski | |

NOT VOTING—1

Durenberger

The PRESIDING OFFICER (Mr. DASCHLE). On this vote, the yeas are 59, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. KENNEDY. Mr. President, I believe that all parents, all children, all schoolteachers, all the members of the business community, those who have been involved in constructive efforts across the country, and who believe that those efforts to increase and enhance academic achievement for our schoolchildren ought to be supported are disappointed today by the effective blocking by our Republican friends of an opportunity to pass this legislation. We have missed a very, very important opportunity.

Make no mistake about it, Mr. President. The underlying thrust of the administration's proposal was, No. 1, to have the Secretary of Education, the Federal officer, make the decisions,

and second, to divert scarce public resources for private schools.

It is those two elements and the differences between us and the administration on those two elements that have virtually prohibited us from making progress on education reform.

We are not going to be deterred. We are going to continue to be committed to this concept. We are going to bring this legislation back time in and time out until we give support at the local level for those that are really trying to do something to enhance school achievement of the children of America.

Mrs. KASSEBAUM. Mr. President, I say to the Senator from Massachusetts, we are just as committed on this side, as is President Bush, to bringing assistance to the local level in all the constructive ways that we can. We are going to have the opportunity to revisit this next year with the reauthorization of the Elementary and Secondary Education Act.

When the Senator from Massachusetts speaks to the Federal bureaucracy and the fact that the administration was wanting all the power to reside in the Secretary of Education, that is not the shape of the bill that left the U.S. Senate, and it was the Senate legislation that was supported here by a majority on both sides of the aisle.

With that in mind, I believe that we can work next year, in the appropriate fashion and at the appropriate time, with a bill that will be supported by a strong majority on both sides of the aisle, that will be a sensible approach to the problems in education. I think that we have addressed all of the problems with this bill. I look forward to working next year in the reauthorization to accomplish what we all hope to achieve in education reform.

## THE OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

### CLOTURE MOTION

The PRESIDING OFFICER. There will now be an hour equally divided on the debate on the motion to invoke cloture on the conference report accompanying H.R. 3371. The clerk will report.

The 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 the debate on the conference report to accompany H.R. 3371, the omnibus crime control bill:

Kent Conrad, Herb Kohl, George Mitchell, David Pryor, Joe Biden, Wyche Fowler, Jeff Bingaman, Al Gore, Tom Daschle, Tim Wirth, Jim Sasser, Richard Bryan, Edward M. Kennedy, John F. Kerry, Daniel Moynihan, Christopher Dodd.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Chair reminds the Senators that we now are in an hour of debate, equally divided, on the motion to invoke cloture on the conference report accompanying H.R. 3371.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, are we on the crime bill? We want to be sure any time used will not be counted against the crime bill time.

The PRESIDING OFFICER. The hour of debate is currently running.

Mr. THURMOND. We need every minute on this crime bill.

Mr. BIDEN. Mr. President, is the time equally controlled?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. The Senator from Delaware is controlling one-half hour?

The PRESIDING OFFICER. Correct.

Mr. BIDEN. I yield 1 minute to my friend from New Hampshire for unrelated business.

## TRIBUTE TO TOM McINTYRE

Mr. RUDMAN. Mr. President, when Senator Tom McIntyre died in August, I lost a dear friend.

And New Hampshire, the U.S. Senate, and our country lost a good and faithful public servant.

We in New Hampshire remember Tom McIntyre with respect and pride—as a native son. Our Government flourishes best when our officials bring to the people's work a deeply rooted sense of place. Tom McIntyre, throughout his 16th years in the Senate, never lost his love for his home State, its people, its physical beauty, and its character.

We learned from Tip O'Neill that all politics is local. Tom McIntyre knew that all policy is local as well, because its effects are experienced by Americans at home where they live and work and play. So for Tom McIntyre a policy proposal's most demanding reality test was how it would work in practice at home.

Tom McIntyre also never lost touch with the values we prize in New England. He always saw himself as a moderate and was proud of it. And indeed, he was one of a distinguished tradition of moderate Senators of both parties whom New England proudly sent to Washington. Tom McIntyre—like George Aiken, Ed Muskie, Charles Tobey, Ralph Flanders, Margaret Chase Smith, and Ed Brooke—brought to the Senate a New Englander's hard work, independence, practicality, common sense, deliberate judgment, and disdain for pomposity.

And when ideological extremes tore at the heart of our country in the 1970's, Tom McIntyre, like these other quiet New Englanders in similar times of stress, defended the most basic American principles of tolerance, due process, and the right to be free of fear. In doing so he helped restore the conscience, civility, and soul of the New England town meeting to a troubled America when we needed it most.

We in the Senate also remember Tom McIntyre with respect and pride—as a self-made legislator.

Tom McIntyre was not a professional politician. He had had no legislative experience when he was elected to the Senate in 1962. He was not a policy expert. He had not been schooled in the policy schools and institutes that have cropped up in recent decades.

He did bring to his Senate work his firsthand experience. Before we had a name for environmental policy, he had led a successful effort to stop the pollution of the beautiful Lake Winnipesaukee near his hometown of Laconia.

Before we had a name for the communications revolution, Tom McIntyre and his wife, Myrtle, had pioneered in bringing cable television to the mountain locked Laconia, even as television itself was in its infancy.

Before we had a budget crisis, let alone a name for it, Tom McIntyre balanced budgets as the mayor of Laconia with classic New England frugality and common sense. One of his favorite stories was about the time he opposed a request from the city fire department for a new firetruck with ladders higher than the highest buildings in Laconia.

And before we had a name for Soviet studies and arms control policy, Tom McIntyre had learned from his own personal experience about dealing with the Soviets. As a young artillery officer he and his unit had linked up with Soviet soldiers in Czechoslovakia at the end of the war. During the impromptu celebration of this historic moment, Major McIntyre noticed Soviet soldiers were smilingly about to heist his jeep. When they didn't respond to his requests to back off, he drew his 45, slammed it on the fender, and said in a clear loud voice: "Dammit, I said, 'Back Off.'" They did, and the celebration of their joint victory over nazism resumed.

So Tom McIntyre brought to the Senate what he had learned from these and other direct experiences with real problems. He also brought to the Senate his own good judgment, common sense, and nonideological practicality.

But he had to learn how to be a legislator. And he had to learn the old fashioned way—through hard work as a Senator.

When he was put on the Senate Banking Committee, he confessed his anxieties about his lack of training in economics or finance to Senator Paul Douglas who, of course, had been a distinguished economist at the University of Chicago. Douglas reassured him, saying: "Don't worry about it Tom. You will have the advantage of not having your mind cluttered up with a lot academic prejudices."

We in the Senate know how Tom developed into one of the Senate's most thoughtful and creative legislators in the field of banking. He chaired the key Subcommittee on Financial Institutions and helped bring into being familiar innovations that we now take for granted—NOW accounts and automatic cash machines.

As he did this work, the McIntyre and his subcommittee became the target of the powerful and willfully competing sectors of the banking industry. Each thought it could dominate and tilt Tom's work to its advantage. But he resisted them all and stood his ground as the people's own independent Senator as he did this extraordinarily consequential work.

His growth as a legislator on the Senate Armed Services Committee was even more impressive. At first he asked to serve there primarily to protect the Portsmouth Naval Shipyard. And he helped preserve that national asset against the shortsightedness of Robert McNamara and Adm. Hyman Rickover.

Otherwise he had little opportunity to shape policy on the Armed Services Committee during his first years. The committee was run firmly from the top of Chairman Richard Russell and one or two other senior Senators.

Tom later recounted his frustrations. He said that 1 day when Senator Russell was quietly consulting at the top of the table with Senator Smith and Senator Stennis on a matter, Tom raised his hand at the bottom of the committee table and asked the chairman: "Would you mind speaking a bit louder please, so Harry Byrd and I could hear what you are deciding up there." This passed for audacity from a junior member of the Senate Armed Services Committee in the 1960's.

But in 1969, Chairman John Stennis asked Tom McIntyre to undertake what proved to be his most consequential senatorial work when he asked Tom to chair a new Subcommittee on Military Research and Development. He protested that he "didn't have a Ph.D. from MIT," but he rolled up his sleeves and set out to learn how to do this work.

For 10 years Tom McIntyre pioneered congressional oversight of this most critical work in the Department of Defense—the seedbed of our military technological advantage in the crucial stages of the cold war and today. His judgments could not have been more consequential to our country's security. Troubled programs like the Patriot had to be made to work. Revolutionary technologies like cruise missiles had to be protected against hostile service interests. And Tom knew that if we invested in the wrong developments, we could make our country less secure by underfunding the necessary programs and by fueling the arms race.

Tom did this work quietly, usually in executive sessions. He annually built consensus among his subcommittee colleagues who rarely agreed on little else—Barry Goldwater and John Culver, Robert Taft, and Harold Hughes, for example. Over 10 years his subcommittee reportedly unanimously 20,000 or so individual recommendations and divided only on a handful.

And Tom so earned the respect of his colleagues on the full Armed Services Committee that they endorsed his recommendations in all but a dozen times or so over a decade. And during this decade the full Senate accepted Tom McIntyre's on these thousands of judgments on all but five or so times. When he left the Senate he was the Congress' most respected and authoritative member regarding military technology.

For all these contributions, we in the Senate remember Tom McIntyre with special respect. We remember he developed a quiet authority, so that when Tom McIntyre spoke on the issues for which he was responsible, the Senate listened and was led.

Our country should also remember Tom McIntyre with respect and gratitude—as an American whose straightforward and unassuming service to our Republic mattered.

Our Government was designed to be directed by citizens, not professionals. And Tom McIntyre's work in the Senate demonstrates yet again that this is both proper and possible. He served in World War Two as a citizen-soldier. And he served in the Senate as a citizen-Senator. He did both jobs with a simple patriotism.

We have won the cold war. The old nuclear danger has eased. And Tom McIntyre is an unsung hero of both of these accomplishments which have made Americans safer tonight.

Finally, Mr. President, let me say that I personally remember Tom McIntyre not only with respect, but also with affection and gratitude—as a friend.

Tom was a role model for many of us in New Hampshire who entered public life in the 1960's. We did not have to be of his party or to share his views to learn from and value his easy good will, his forthrightness, his political courage, and his integrity.

In August, I joined his neighbors and other friends to honor him in St. Joseph's Church in Laconia, where he had worshiped as a boy. An old friend of mine, Larry Smith, gave the final eulogy. Larry had served as Tom's administrative assistant, had worked with him closely as a professional staff member of Senate Armed Services, and loved Tom McIntyre like a father.

Mr. President, I as unanimous consent that Larry's eulogy be printed in the RECORD. He spoke for us all.

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

FOR OUR CHILDREN AND THEIR CHILDREN . . .

A EULOGY FOR SENATOR THOMAS J. MC'INTYRE

(By Larry K. Smith, Administrative Assistant to former U.S. Senator Thomas J. McIntyre of New Hampshire)

Children wherever we live will ask us about Tom McIntyre and why they should remember him.

We might tell them about his remarkable Senatorial achievements—laws he wrote, debates he won, causes he championed.

But, above all, we should be sure to tell our children about Tom McIntyre's most profound legacy—a legacy of enduring values about public life.

We should be sure to tell our children that Tom McIntyre pursued politics primarily as a matter of public service.

He believed one should run for office not for personal gain, not out of a compulsion for celebrity, not to bolster one's ego, but basically as a duty, a civic responsibility. Politics, properly understood, is therefore a calling, not a career.

Robert Frost told us how he, as a New Hampshire lad, loved to climb birch trees—up a "snow-white truck toward Heaven till the tree could bear no more . . ." Frost remembered, "This climb will be good both going and coming back."

Washington is filled with driven ambitions who find only climbing good.

But anyone who knew Tom McIntyre well understood that he went to Washington, not to climb, but to serve. And his heart was always here in New Hampshire—here in Laconia. And he agreed with Frost, "One could do worse than being a swinger of birches."

We should also tell our children that Tom McIntyre mastered the art of practical politics as a public responsibility.

He believed that if an office is worth standing for, then it is worth running for—to win. If a cause is worth believing in, then it is worth working for—to prevail. The deeper one's convictions about a cause, the greater one's obligation to be effective. There is no room in this tradition for political kibitzers, dilettantes, or summer candidates.

And Tom and Myrtle McIntyre's campaigns over the years still stand as models of the practical political art.

We should also tell our children that Tom McIntyre's legacy values integrity—insists on integrity.

To him, it meant telling the truth. It meant keeping one's word. It meant standing up for one's conviction even at personal cost. It meant respecting public office as a public trust with standards of ethics and appearance higher than even those set by law.

And let us celebrate today that throughout thirty years of rock'm-sock'm New Hampshire politics, Tom McIntyre's good name and the public's confidence in his integrity met these high standards.

We should also tell our children that Tom McIntyre valued the free competition of ideas.

For two hundred years Americans have understood that a diversity of interests and a competition of ideas are crucial to our liberty.

So Tom McIntyre spent his own earned political capital to try to build a two-party system. He recruited young talents all over New Hampshire and helped them into the fray. Many are here today to honor him.

He also defended the integrity of this political competition. He opposed those who would stifle the free contest of ideas, those who would emulsify the two parties, those who would insist on having two parties in name, but one party in fact.

Let's also tell our children that Tom McIntyre's legacy includes a politics of civility.

Civility—a fancy word—for Tom McIntyre's politics of good cheer and gentleness. His campaigns—for all their seriousness and sense of purpose—were fun. He campaigned with elan, with a twinkle, and with an Irish song.

He also taught us to think well of others until there is a reason not to. He tried his best not to use "mean words" in his campaigns.

So Tom McIntyre's politics was not a politics for fear which appealed to our darker sides. It was not a politics of anger which took pleasure in inflicting pain. It was not a politics of paranoia unable to distinguish between friends and foe. It was not a politics of vengeance which made all adversaries into enemies.

Think of his friendships with Norris Cotton and with Warren Rudman. Their mutual respect transcended political differences. Their friendships were models of civility that gentled debates and campaigns.

And we should also be sure to tell our children Tom McIntyre valued practicality.

Because Tom McIntyre was a practical man. He knew that the true test of public policy is whether it works in practice.

He loved to tell Washington how he, as Mayor of Laconia, rejected the fire department's request for a ladder truck several stories higher than the town's highest building.

Such pragmatism was for centuries America's central philosophic tradition. Only recently have theoreticians without practical experience begun to dominate policy making. This may have made Tom McIntyre's practicality rather unfashionable in some Washington seminars and drawing rooms.

But he was right. And we need to tell our children.

The great Irish poet, W.B. Yeats (and Tom McIntyre loved his Irish poets), summed it up:

God guard me from those thoughts men think
In the mind alone.
He that sings a lasting song
Thinks in a marrow bone.

Finally, above all, let's tell our children that the passionate center of Tom McIntyre's political legacy was his moral courage to defend the soul of our Republic—our freedom—abroad and here at home.

He, along with millions of others, did this in uniform.

And here in New Hampshire in the 1970s, his ringing defenses of the rule of law, the right of the other fellow to be heard, and the right of all Americans to be free of fear of intimidation were New Englander's love of liberty in full flower.

And to do this required grit. It required true grit, because others sat in silence.

Tom McIntyre's moral courage was all the more remarkable because he, unlike many politicians, found no joy in a fight, and because he, unlike the ideologies, lacked their bracing self-certainty.

These public values—service, effectiveness, integrity, the competition of ideas, civility, practicality and a passion for liberty—I invite you now to add your own favorite—were, of course, not invented by Tom McIntyre. He never wrote them out. He would be the first to tell us how he did not measure up to these standards. Nonetheless, they were the heart of his witness as a public person and the core of his beliefs as a private man.

And these are not partisan values. They are above party and above personal political persuasion. In this respect, we are all republicans; we are all democrats.

Henry Adams said, "No one can tell where a teacher's influence stops." This legacy of Tom McIntyre is similarly enduring, because it is a set of values larger than his career, yet nurtured and enhanced by his efforts to realize them.

So when we go home today and our children ask us about Tom McIntyre, let's tell them about his legacy of values. Let's sing these lasting songs in a marrow bone to them, because these are values for our children.

They live for all the children of New Hampshire, and for their children * * * and for their children * * * and for their children.

## PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, I ask unanimous consent that Beverly Gastright of my staff be allowed the full privilege of the floor on this crime bill.

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

## THE OMNIBUS CRIME CONTROL ACT—CONFERENCE REPORT

CLOTURE MOTION

The Senate continued with the consideration of the motion.

Mr. BIDEN. As they say in the vernacular, "this is it." This is it. We have been working on this crime bill, this conference report, which has been held hostage for 300 days by the opponents.

Mr. President, this is the final, final moment for us to decide whether we are going to do anything about crime this year.

The Senator for whom I have an enormous amount of respect, Senator KASSEBAUM, said something earlier unrelated to the crime bill just a moment ago. As we concluded debate on attempting to invoke cloture on the education bill, she was summing up—I have enormous respect for her—she said something that maybe is a Freudian slip that slipped into the jargon and I think the subconscious shoes of my colleague.

She said, well, we did not get the education bill, but maybe next time we can get a consensus that we have a real majority for the education bill.

There were 59 votes for the education bill. Where I come from, that is a real majority. If there is 100 votes, it is 59 percent. If there are 59 votes, that is almost 60 percent of the vote. I call that a real majority.

What our Republican friends have done in these waning days on important issues—and I will stick to my issue of crime here—they have redefined what constitutes a real majority. They have done it legally under the rules. They have said that for the last 300 days, notwithstanding the fact that I believe 57 Senators on the floor of the U.S. Senate believe strongly that we should free the crime bill, that we should enact the death penalty, that we should reform habeas corpus, that we should provide help for local police officers, that we should deal with violence against women, and that we should deal with violence against children. Notwithstanding that, 56 or 57, depending how many are present today, U.S. Senators think we should do that. Notwithstanding the fact that the House of Representatives voted, finally, for this conference report, a majority of them. For refusing to allow the American people, for refusing to allow the police, for refusing to allow the citizens of this country the overwhelming and undeniable beneficial impact of this significant legislation for 300 days, this has been held hostage.

Sarah Brady is standing outside these doors. She worked for years on a simple, little, tiny provision of the law that many of our States have already, which says that we do not want felons buying guns. It is against the law for felons, convicted felons, to buy guns.

So, she came up with an idea and said, look, you saw what happened to my husband when he got shot with Ronald Reagan. We have to do something about crazy people walking in and buying guns. She wants to have a computer check so that gun dealer can press a button and look and see whether or not the person giving them their driver's license to buy the gun is a convicted felon. What an outrageous notion.

But since most States do not have those laws, or that capacity at the moment, she said until they do, somebody should have to wait 7 days to buy a handgun, so they can run a check. They can pick up the phone and call the local police and say, hey, is John Doe down here a felon? Because that provision, the so-called Brady bill, is in this 500-page crime bill, undeniably the toughest crime bill in the history of this country. I have the presidents and the chief executive officers of every major police organization in America in my office, as I speak, in my conference room. They have been there since 5 o'clock last night, since 5 o'clock. We negotiated with the administration—them acting as the mediator.

They came to me and said, "Look, Joe, we are for the conference report, but we need a crime bill. Our folks are in trouble. So, Joe, are you willing to compromise even further than the crime bill is?" I said "Yes." They said, "We make a proposal, a former proposal, to you." To the best of my knowledge it has never been done and no chairman of any committee has ever agreed to this before, to the best of my knowledge. They said, "Would you agree to let us be the mediator, to literally sit in and mediate between you and the Justice Department?" And I said "Yes."

So last night until 2 o'clock in the morning, Mr. President, I sat in my regular office and I waited to be called in by these nine police chiefs and presidents. This is of the National Association of Police Organizations, the chiefs of police, the Fraternal Order of Police. I will get the whole list of them. And I went in and they said, "Would you compromise on this? The attorneys general say this is not good enough." "OK, I will compromise on that."

We went back and forth like that, me sitting there as chairman of the Judiciary Committee in my office, waiting on call in my office for these police organizations to say to me, "OK, Joe, come on back in now. The Justice Department just stepped out. How about this?" They end up at 2:30 in the morning and they said, "OK, here is what we police think is a legitimate compromise," and they laid it on the table.

I have been selling that compromise to the Members of the House and others since we met. As I speak, my understanding is—and I am going to ask my staff to get up right now and go call, please—my understanding is that the Justice Department will not compromise. You know why, Mr. President, what is this all about?

You are going to hear from my friend—whom I have an inordinate amount of respect for, truly he is my friend—from South Carolina, Senator THURMOND, that this is about habeas corpus. I believe it is about habeas corpus with him, but it is not habeas corpus, Mr. President. This is about Sarah Brady and her drive to do something about keeping the guns outside of the hands of felons. It was about the NRA. That is what this is about.

I agreed with the attorneys general and with these police officers. I will give you the list: National Association of Police Organizations, NAPO, second largest in America; National Fraternal Order of Police, the largest in America; National Brotherhood of Police Officers; International Union of Police Associations; National Troopers coalition; Police Executive Research Foundation; National Organization of Black Law Enforcement Executives; Major City Chiefs; and the Federal Law Enforcement Officers Association.

Their presidents or chief executives have been in my office since 5 o'clock last night. Some of them openly endorsed President Bush, the organizations, the troopers. Some of them have openly endorsed Governor Clinton, NAPO. Some have not endorsed anybody. These guys are not in there for politics. They are in there because they are crying for help. They flew in from around the country, sitting in my office until 2 o'clock in the morning. Finally, a little after 12, we bought them five pizzas, the first thing they had eaten. They care about this. They care about this. I have tried.

I am just told that the Attorney General's office rejected the offer the police put forward to them last night—to me and to them.

Mr. President, the point I want to make here is this is not about habeas corpus. What this is about is guns, guns and the power of the NRA. And we may very well fall three or four votes short of getting a supermajority.

The insistence for 300 days on the part of my Republican friends and the administration, for 300 days. In the meantime, what happened in the 300 days, Mr. President?

Well, there have been 20,978 murders in America, carnage, pure, simple carnage. There have been 90,528 rapes in the last 300 days, Mr. President. There have been 584,099 robberies, Mr. President. There have been 928,081 aggravated assaults, Mr. President, and there have been 1,623,687 violent crimes since the filibuster began 310 days ago.

Mr. President, it is against my political interest to say this, but I agreed, over the howling objections of my friends on the left, to take out of this bill the one objection they say exists with regard to the bill—habeas corpus, the so-called taking provisions in the bill. I agreed to drop it. I had heard for 200 days that the reason this was a bad bill was the provision in this bill that the House has passed, the Senate had passed and needs 4 votes to be put on the President's desk. If they let us vote up or down, it does not need any more votes to be put on the President's desk.

I agreed to drop it. I went over to the House side and got agreement from my friends on the House side to drop it. And we heard a whole raft of new objections. Mr. President, 310 days ago this filibuster began. Three hundred ten days ago there were 1,623,687 fewer violent crimes committed in America.

Mr. President, I am not suggesting to you or anyone within earshot of my voice that had this conference report been the law, there would not be any crime in America. But I am testifying to you that I believe with every fiber of my being, just as the police in America, believe, had this been law, there would have been fewer, would have been fewer.

Mr. President, my friends now, as we say, in my State, having found religion after a year of objecting, came forward and now agree with the Biden proposal in the bill to fund local police officers. So we have no fight about that. They say they are for the Brady bill now. They say that.

But, Mr. President, in this compromise we had when they sent me back a compromise, that would be something other than what we have before us, so we could all unanimously agree on something, guess what, a little change in the Brady bill. The Brady bill up there makes sure that the police are indemnified, so if the police officer, when a gun dealer calls and says, "Could we sell this gun to John Doe?" The police officer, in good faith, looks down the list and says, "No, you cannot sell to John Doe." It turns out later you could have. It was the wrong Doe, and the John Doe that went in to buy the gun could have bought the gun. We all thought that the police officer should be held harmless on that.

My friends, riding around, knocking on doors saying it is a police officer knocking down the door in good faith, there should be compensation, but they do not want compensation for a police officer who makes a mistake if, in fact, he says to a gun dealer when he looks down the record, "No, you cannot sell to that person."

So they say we are for Brady. I am not talking about my colleague here; I am talking about the Justice Department. They said we are for Brady, but a little change, we do not want to indemnify police that way. Guess what that does, Mr. President? It puts an overwhelming burden on the cop when in doubt to say, "Sell." When in doubt say, "Sell." When it is close, say, "Sell."

Mr. President, this is about guns. But you know the worst part of it is—as you and I know, I have been a Senator for 20 years. To the chagrin of my constituents, I am not known as gun control Senator. I am viewed as an anti-gun-control Senator. But even I, Mr. President, recognizing the right of the second amendment, the right for people to bear arms, do not see how any legitimate person is going to be hurt by the existence of a system that says unless we can check quickly you have to wait up to 7 days to be able to buy a handgun so we can find out whether you are a felon.

Mr. President, my State of Delaware probably has as many gun owners per capita as any State in the United States of America, I would guess.

I do not know that for a fact. Big hunting State—duck hunting, bird hunting; big State hunting.

In my State, we found ourselves in the situation where we invoked such a law at the State level. And guess what? In the first 3 months people came in—I do not have the exact figures. I ask unanimous consent that I may be permitted to submit the exact figures.

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

Mr. BIDEN. Out of the first 1,360 people, something like that, who came in to buy a gun under our new law, 10 percent were convicted felons. One out of ten of them who walked in the door—no, I am sorry, it is the first 1,063 people that came in—the number not eligible to buy guns was 10 percent. One out of ten of them, roughly 106 of them, when they looked down the list, they said, oh, this guy is a convicted felon.

So, Mr. President, these laws work. What Sarah Brady has been pouring her heart and soul out to get passed, with the strong support of leaders like Senator METZENBAUM and Senator

MITCHELL and Senator DOLE and others, Senator KOHL, Congressperson SCHUMER on the House side, what 70 percent of the American people support, what a majority of the NRA membership, I am told, supports, but we are stopping an entire crime bill because of that.

Mr. President, it seems like I have made this speech 10 times too many times. I must tell you, I am disheartened. I have worked for years, and in this case on this legislation I have never worked any harder for the past 2 years, to get a tough crime bill passed. It contains capital punishment—a lot of people do not like my position being for capital punishment. It contains significant restrictions on habeas corpus, further willing to restrict them. It contains significant help for local law enforcement.

You know the only thing we know about crime and violence in America for certain is we know that if there are more cops standing on the street, there is less violence. We think we know a lot of other things, but that is the only thing we know with absolute certainty.

And guess what, Mr. President? As this wave of violence—I would like to be able to walk up and have every member—I do not know a single person sitting up in the gallery. I do not know a single American or visitor sitting up in the gallery. I do not know one of them. But I would be willing to bet if we opened up the mike and allowed them to march down here, you would not find one Democrat, Republican, liberal, conservative, crazy right, crazy left, middle, to walk down and stand at this microphone, look at you and look at the American people on C–SPAN and say, "No, America is a safer place today than it was 5 years ago."

I am willing to bet you, you would not find a single person.

Mr. President, here we are, because the NRA does not like the Brady bill, I am required to get a supermajority to do something to make it a little bit safer.

In the last 10 years, Mr. President, that this wave of violence has increased, do you know how many officers have increased on the streets in 10 years? One percent.

We provide help in here, Mr. President, for local law enforcement.

And by the way, I know you will hear my friends say, "Look, law enforcement, that is a local problem, because of local crimes." Drugs are not a local problem, Mr. President. They are grown overseas. They come in through the ports of New York and New Orleans and Wilmington, DE, and California. They come across the border. And they spawn violence; 71,000 murders, Mr. President, since President Bush took office; 71,000 Americans murdered.

What do we do? Well, we insist on the Senate rules and procedures that we require a supermajority in order to be able to remain sure that—I would like my friend, when he stands up—and I am going to save the remainder of my time—to explain to me, other than habeas corpus, what does he object to in this bill? If it is habeas corpus he objects to, I will drop all the habeas corpus out of it, take it all out, every bit of it, take it out and let us pass the bill without it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

The PRESIDING OFFICER. The Senator is recognized.

Mr. THURMOND. Mr. President, once again, instead of considering a true crime bill which the prosecutors, police, and victims can all support, the majority party has seen fit to drag out the lifeless remains of a crime bill twice rejected by the Senate.

I have remained strongly committed to passing a true crime bill despite the political objectives of the majority party. In fact, 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 a compromise with Senator BIDEN. This compromise was to 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. Instead of debating a tough bill, or the compromise we thought had been agreed to, we are once again considering the conference report. This bill is not an anti-crime bill. It is a pro-criminal bill.

For example, the most troubling provision in this bill is the habeas corpus language. Senator BIDEN has stated that it is the most contentious area of negotiations. The language in the conference report would reverse over 14 Supreme Court decisions favorable to law enforcement. This provision will throw the prison doors wide open for thousands of dangerous criminals throughout the Nation. Standing alone, this provision is enough to compel the Senate to reject this conference report.

Thirty-one State attorneys general, 16 Republicans and 15 Democrats, wrote President Bush urging him to "protect the American people" and veto this bill. They wrote that any bill containing this habeas proposal, and I quote: "cannot be described accurately as an anti-crime bill but would instead be a pro-criminal bill and particularly a pro-convicted murderer bill".

Mr. BIDEN. Will the Senator yield for a question?

Mr. THURMOND. Mr. President, I will not yield. I will let him respond later if he wants to.

Mr. President, although this conference report sounds tough, it is not. Another example of this is the death penalty. Although the bill authorizes the death penalty for over 50 Federal offenses, the trial procedures make it extremely unlikely that the death penalty would ever be imposed. Furthermore, the habeas proposal contained in this report renders the death penalty meaningless since virtually no sentences will be implemented.

The House crime bill, as well as the President's bill, responded to some of the serious problems caused through application of the exclusionary rule. Both provide that when an officer acts in good faith compliance with the fourth amendment, any evidence obtained therefrom will be admissible as evidence in a criminal trial.

The conference report rejects this important measure and instead rolls back court decisions to the detriment of law enforcement and prosecutors. It substantially narrows the current good faith exception to the exclusionary rule. It is yet another provision which expands the rights of criminals.

Unbelievably, this report contains a broad provision which mandates automatic reversal of criminal convictions based on improper admission of a defendant's statements or confession at trial. This new rule applies even in cases where it is shown beyond a reasonable doubt that the error was harmless and could not have affected the outcome of the case. It overturns the Supreme Court case of Arizona versus Fulminante. This case involved a man who took his 11-year-old stepdaughter into a desert, choked her, sexually assaulted her, and then shot her in the head after forcing her to beg for her life. According to the Department of Justice, the result of this procriminal provision will be the release of an untold number of murderers like Fulminante. The decision of the Democrats to include this measure in their bill reflects an arbitrary determination to free criminals solely on the basis of technicalities.

If convicted criminals are unable to avail themselves of this bill's new loopholes to overturn their convictions, this bill still lets them out of prison early. Believe it or not, this bill reduces the sentences of violent offenders if they participate in drug treatment programs.

This report also drops several provisions aimed at fighting sexual violence and increasing victims' rights. It also drops several mandatory minimum penalties. Mandatory restitution re-

quirements for victims of rape, child molestation, and other crimes were dropped. Finally, mandatory HIV testing for rapists was dropped.

Mr. President, a few weeks ago, a young mother named Pamela Basu was brutally murdered in suburban Maryland when she was dragged to her death by two young men who stole her car. It was a heinous offense which focused the Nation's attention on the need to crack down on depraved killers. Yet, if this conference report becomes law it will impede the investigation and prosecution of this and other cases. For example, her assailants apparently confessed to the crime. Yet, if convicted, the admissibility of confessions provision contained in this bill could be asserted to overturn their convictions regardless of whether there was other overwhelming evidence of guilt. Critical evidence proving the killers' guilt was discovered at the scene of the crime. Yet, the type of change to the exclusionary rule this bill proposes could result in the evidence being thrown out or their convictions overturned on mere technicalities. Finally, Maryland has the death penalty. This bill's habeas corpus provision will certainly play a role in whether the death penalty is even sought. Even if the prosecutors seek the death penalty and a jury sees fit to impose it, this bill's habeas corpus proposal will virtually guarantee that the sentence will never be carried out.

Mr. President, I have discussed the Basu case to make a point that these procriminal provisions are real. They will affect real cases where men and women have been murdered or assaulted. Given the violent crime crisis we now face, can this Congress afford to pass a bill which will expand the rights of criminals? The measures I have discussed have the potential to affect virtually every single violent crime investigation and prosecution in this country. Long after all of the additional money authorized by this bill runs out—if it is ever appropriated—the procriminal provisions contained in this bill will still be on the books. As a result, more criminals will walk free, more violent offenders will have their convictions set aside on mere technicalities, and more victims will be outraged. This bill furthers the liberal agenda where technicalities take precedence over the issue of whether a criminal is actually guilty of the crime he has been convicted of. No, Mr. President, this is not a tough crime bill.

In closing, many of the supporters of this conference report have stated that we oppose this report because it contains the Senate-passed Brady language. Yet, a fact that seems to have been missed by my colleagues is that, while I am the Senator leading this opposition, I am also one of the Senators who voted in favor of the Senate-passed Brady provision. The notion that I would oppose a bill simply because it contains this provision is wrong.

The Senate must not permit this bill to pass. It is a bad bill. It is a bad deal for victims, law enforcement, and the other good people of America. I urge my colleagues to vote against cloture on the conference report.

The PRESIDING OFFICER. The chair informs all Senators that the Senator from South Carolina has 20 minutes remaining. The Senator from Delaware has 7 minutes remaining.

Mr. THURMOND. I reserve the remainder of my time.

Mr. BIDEN. Mr. President, I ask unanimous consent that we be able to extend the time for debate by 10 minutes to be equally divided.

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

UNANIMOUS-CONSENT REQUEST

Mr. BIDEN. Mr. President, I yield myself 30 seconds.

Mr. President, assume what the Senator from South Carolina says is correct, and I disagree with it all. But if he is correct, I stand here now and I ask unanimous consent that we remove from the conference report all provisions relating to habeas corpus and all provisions relating to Fulminante.

The PRESIDING OFFICER. Is there objection? The Senator from South Carolina.

Mr. THURMOND. Mr. President, the need to enact true provisions on habeas corpus is extremely important. We cannot pass a bill without a tough, strong habeas corpus reform proposal. That is the main trouble with the death penalty now.

For instance, in my State a man was on death row for over 11 years——

The PRESIDING OFFICER. Does the Senator object? Does the Senator reserve the right to object and so does object?

Mr. THURMOND. Yes, I object, Mr. President.

Mr. BIDEN. Mr. President, I yield myself an additional 30 seconds.

Mr. President, as we say in other forums, I think the answer speaks for itself.

You just heard why. You heard this whole long speech: The reason why this is a procriminal bill is because of habeas corpus and Fulminante. I said let us drop it. Guess what—what does that leave? What is it that they do not like?

Mr. President, sitting in the gallery are those police officers I talked about. One I left out was Bud Meeks, the head of the Sheriffs Association. I have never known them all to be grouped as a bunch of whacko liberals. I ask you to ask yourself this question, I say to my colleagues: Why, if this is procriminal, does every single police organization of America—not only support it but badly want it?

I yield to my friend from Tennessee, who I thank so much for canceling three major State engagements today to come back here because he felt this was so important.

I thank him for that and I yield him 4 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I want to thank the distinguished chairman of the committee for yielding me time. May I say in response to his kind comment that there was no question in my mind about being here for this vote. This is one of the most important votes of this entire session of Congress.

We have seen records for violent crime in each of the last 2 years—1990 set a record, 1991 set another record. And the Senator from Delaware has worked for an incredibly long period of time, with great skill and energy, with police officers all across this country and experts on crime all across this country, to come up with the toughest crime bill ever to come before the Congress of the United States.

It has to rise above politics. This is a measure that has to be passed.

So I am very pleased to be here. I will just say, very clearly, that I think a vote against this bill is a vote to refuse to help police officers across this country deal with the worst crime epidemic this Nation has ever seen.

This bill does what is needed. It ought to have strong bipartisan support because all of the provisions in this bill will go right down the drain unless we can get enough support from the other side of the aisle to help pass this legislation.

Another 71,000 Americans were murdered during the first 3 years of the current administration. That is not the fault of the administration. But the failure to do anything about it is the fault of the administration.

The chairman of this committee has been working diligently to put together a bipartisan coalition and craft a bill that will be extremely effective in dealing with this matter. By the end of this 4-year period, over 90,000 Americans will have been murdered. We are all familiar with how that compares on a per capita basis with every other nation in the world. What are we going to do about it? Murder, armed robbery, rape. There were over 100,000 reported rapes in the United States last year, and the experts tell us that for every 1 that was reported, there were another 6 that were not. When are we going to do something about it?

Crime among kids is escalating dramatically on any given day. And 135,000 children carry a gun into the classroom. Have you met with schoolchildren lately in some of the cities of this country and asked them: How many of you have been personally fearful of a loaded gun in your classroom? How many of them raised their hands? Sixth, seventh, eighth graders, ninth graders, tenth graders. What are we coming to when we can have a situation like that and no response to it?

Last year, more than 2,200 kids were murdered. The murder toll among such children is rising more than twice as fast as the overall total. And now among children in cities, do you know what the number one cause of death is? Murder. And we are sitting here debating these provisions that allegedly lead to the objections, and we say OK, we will take them out of the bill, and they say: No, no, no, we have some other problems.

The violent crime arrest rate for youth between 10 and 17 held fairly steady between 1980 and 1987, but it has risen dramatically during the last 3½ years.

This legislation provides an effective response to the crisis of crime in America. It provides the largest assistance ever to local police officers all across this country, major new funding for prosecutors and local police, increased penalties for crimes involving firearms, and the largest expansion of the Federal death penalty in the history of this country, including death penalty for drug kingpins, for the murders of law enforcement officers, for drive-by shootings and for terrorist killings and, yes, the Brady bill, a 5-day waiting period for handguns until an instant check system to prevent felons from getting their hands on guns is in place.

I was very pleased to work closely with the chairman of the committee, and with the majority leader, and with others to craft a compromise provision that I think is balanced and extremely effective. But it has more as well: New boot camps, and regional prisons to house drug offenders, new antigang, and rural crime programs, new antichild abuse measures, and much more.

Where the assistance to local law enforcement officers is concerned, this legislation will add 10,000 police officers and prosecutors to our streets and courtrooms in cities all across the United States. That is real help. That is a real response. That is an effective set of measures to do something about this problem.

By sharp contrast, the administration has proposed deep cuts to State and local law enforcement. They would remove 1,000 police officers from the frontlines under the provisions this President has sent to the Congress.

We want to go in the other direction. Military style boot camps as I said, drug treatment prisons, and other law enforcement programs will house 40,000 Federal, State, and local offenders. The drug emergency areas program will put 2,000 more police on the streets within that program, and 60,000 more drug addicts in treatment in the areas most ravaged by drugs and crime.

The police corps program is in this bill. That, too, will go down the drain unless we get enough votes from the other side to get the number we need to pass it. The police corps program would recruit more than 20,000 young police officers to help beef up our war against crime.

This bill also has prison based drug programs that will treat more than 90,000 drug addicted State and local prisoners; aid to rural areas that will treat 10,000 hardcore addicts; antiyouth gang efforts to provide alternatives such as boys and girls clubs in hundreds of public housing projects. And, finally, Federal law enforcement will be boosted in this bill by 400 more DEA agents, 20 new State and local task forces, 1,000 more FBI agents, 900 more agents attacking the flow of drugs through our borders, and 350 more Federal prosecutors.

I plead with my colleagues on both sides of the aisle, pass this bill. Let us get tough with crime. This is the toughest anticrime bill we have ever had a chance to vote on. Do not play politics with it. Let us have a bipartisan vote to pass it.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. KOHL. Mr. President, I rise today to urge my colleagues to vote for cloture on this strong, balanced anticrime package crafted by Chairman BIDEN and others. This measure will create tougher laws, put more police on the street, and result in greater certainty of punishment. Moreover, it includes the Brady bill, which would help keep guns out of the hands of criminals and drug traffickers, and provide a cooling-off period for gun purchasers consumed by violent passion. It is undoubtedly the last clear chance we have this year to pass this crucial measure.

Six weeks ago a 15-year-old honor student named Alain Clamaco was shot to death outside his Northwest Washington home during the middle of the afternoon. He was shot five times—once in the head, twice in the chest, once in the right arm, and once in the back side. At the time of his death, he was mowing his lawn. He was not robbed; he was not assaulted; he was not carrying a weapon; in fact, he had no previous contact with the assailant—Sean Lee Qualls. It was a brutal, unprovoked act of violence. When homicide detectives asked Sean Lee Qualls why he shot Alain Clamaco, he told them it was because he "had an urge to do it."

This motive bears repeating: Sean Lee Qualls killed Alain Clamaco simply because he "had an urge to do it."

Many of us watched the family and friends of Alain Clamaco on television. We understood their grief, their loss, their feelings of helplessness. We understood it because the sad truth is that similar tragedies occur across America every day.

And while we did not see or hear or read much about the family or friends of Sean Lee Qualls, we should feel saddened for them as well. Why? Because Sean Lee Qualls, a disturbed young man and drug abuser who should have never had a gun in the first place, is going to go to jail—as he should—for a very long time.

Of course, there is no panacea for the senseless violence: We all know that we need tougher laws; more police; more certainty of punishment. And, of course, nothing that we can do will ever make Alain Clamaco's family whole again. But there is a crucial step we can take now to reduce at least some of the carnage: We can enact the Brady bill.

Mr. President, more than 15 months ago the majority leader, AL GORE, and I took the original Brady bill and combined it with the best elements of the so-called Staggers amendment. Our compromise measure has three major components: A mandatory background check for all firearm purchases; a uniform 5-business-day waiting period for handgun buys that would remain in effect for at least 2½ years; and $100 million for States to upgrade their computerized criminal history records.

The Mitchell-Kohl-Gore amendment enjoyed broad support: It was endorsed by everyone from Ronald Reagan to Bill Clinton and from HOWARD METZENBAUM—who has tirelessly led the fight in Congress for sane handgun laws—to the minority leader. Our amendment passed the Senate by an overwhelming 67–32 margin more than a year ago.

Yet during this same year—while Congress and the President remained at an impasse over the crime bill—firearms violence continued to rage in our cities and on our streets. In Killeen, TX, a troubled young man drove his truck into Luby's Cafeteria, pulled out his semiautomatic, sprayed pistol fire at a lunchtime crowd, and killed 23 people. At the University of Iowa, a deranged student, distraught over his failure to win an academic award, killed six people with a .38 caliber revolver. And last spring Los Angeles erupted, leaving more than 50 dead. All in all, in the 450 or so days that the President has played politics with the Brady bill and the crime bill, more than 17,000 Americans have been murdered by firearms.

Indeed, it may be more dangerous to live in a major American city than to serve our country in a foreign war. Fewer than 300 Americans died during the Persian Gulf conflict, but 482 people were murdered last year in Washington, DC, alone.

I am not saying that all of these tragedies would have been averted had we enacted the Brady bill, but I am sure that at least a few of these lives would have been saved. And don't take my word for it, ask the NRA. It supports mandatory background checks, which the bill would impose. And in the past it has even endorsed a waiting

period. According to its 1976 publication entitled "On Firearms Control":

A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

The NRA was right then; it is wrong now.

Mr. President, the measure before us gives Congress a chance to do something about this carnage. Chairman BIDEN has worked hard for this legislation; I will support it; and I hope it is signed into law.

But I want to make one more point to my colleagues who believe they can filibuster the crime bill as a way of stopping Brady: that strategy will fail. The Brady bill has the support of 90 percent of the American people and the endorsement of every major law enforcement organization. In the end, it is going to pass the Senate and it is going to become law. If not today, then tomorrow; if not tomorrow, then next week; if not next week, then next year.

Why? Because America will not sit still while criminals and drug traffickers continue to purchase much of their firepower over the counter. Just open your newspaper or turn on your TV and you will discover this sad fact: Never has the need for the Brady bill been so pressing and the consequence of its absence so regrettable.

So as votes are cast, consider this choice: Do you want to enact the Brady bill as a free-standing measure—or do you want to combine it with the death penalty, habeas corpus reform, and other tough criminal law provisions?

Mr. President, I urge my colleagues to vote for cloture.

Mr. GRASSLEY. Mr. President, if General Douglas MacArthur were here today, he might say, "Old crime bills never fade away; they just die." I had hoped that this crime bill would just fade away. The conference report has been forgotten, a relic of a conference committee that took the weaker version of Senate and House crime provisions. But instead of letting it fade away, this bill continues to be considered, despite the fact that it has no chance of ever becoming law.

This bill was a bad bill in November. It was a bad bill when it was killed earlier this year. And it is still a bad bill. The continuing crime sprees across our country are much too great a match for the weak provisions of this bill.

A serious crime bill would not contain a weak exclusionary rule provision. If police act in good faith, the exclusionary rule will not deter police misconduct. This bill actually creates exceptions to a police officer's ability to rely on facially valid warrants, and will lead to unnecessary disputes regarding the warrant.

A serious crime bill would not contain weak habeas corpus provisions. This crime bill would expand opportunities for criminals to challenge their convictions. And it would allow them to raise arguments from decisions that had not even been handed down at the time of their convictions. Habeas petitions take too long now; expanding the ability to file habeas petitions can only reduce the finality of judgment and show further disregard for victims of crime and their families. Moreover, the capital punishment provisions of this bill are illusory because of the bill's expansion of habeas availability.

The American people want action on fighting crime, not a charade that actually expands the rights of criminals. This bill is not worth voting on.

Mr. DOLE. Mr. President, my remarks will be short. We have been over this time and again.

And let me just say that I appreciate Senator BIDEN'S offer to begin amending this bill on the floor, but it comes a bit too late.

The time to amend this bill was in the conference committee. and instead of asking for the help of Senator THURMOND, the administration, or any other Republican, the Democrat Majority rammed a bill through without any input from our side of the aisle.

Now that is their right. They have the majority. But part of being in the majority is taking responsibility for their actions.

So they have to take responsibility for taking a strong Senate-passed anticrime bill, and a strong House-passed anticrime bill and turning them into mush.

Go on down the line, from habeas corpus to the death penalty, and you will find that in almost every instance, the conference committee reported out the weakest provisions possible.

And, as others have said, just as important as what the conference bill contains is what it does not contain. Seventy tough, no-nonsense anticrime provisions were stripped from the bill.

For some reason that still escapes me, those provisions included a whole series of ones which increased penalties on those who assault women. These provisions included a doubling of maximum penalties for recidivist sex offenders, and HIV testing of defendants in sex offense cases with disclosure of test results to victims.

Mr. President, the sad fact is that Senator GORE and others would rather play the blame game, than sit down in good faith to negotiate a true anticrime bill which would help the American people.

Mr. SIMPSON. Mr. President, this conference committee report is a criminal rights bill, not a crime bill.

As I said on the floor 2 nights ago, President Bush has agreed to a crime bill compromise that was first suggested by a Democrat—but that it was the majority party—the Democrats—who later refused that compromise.

That compromise did have the Brady bill included as a part of it.

It is not the Republican Party or our fine President of the United States who is obstructing this process.

It is the majority party.

Today, we are going to be voting for the second time on whether to invoke cloture on motions to proceed to the conference committee bill. This is pure partisan politics, not legislating.

The series of votes we are having today are being used by the majority party—the Democrats—in a well orchestrated attempt to mislead the public and to shore up Governor Clinton's diminishing lead in the polls.

Let us not forget what we are about here.

Two nights ago, I introduced into the RECORD a copy of the letter from Attorney General Barr accepting a compromise on the crime bill—a compromise which included the gun control. Senator THURMOND has outlined that compromise today. It was once again rejected by our Judiciary Committee chairman.

The conference committee report is a compilation of the worst provisions from the respective Senate and House versions of the crime bill. It includes the worst habeas corpus provisions, the worst of the exclusionary rule provisions, the worst imaginable provisions regarding so-called coerced confessions. And, Mr. President, it incorporates the worst of all the various versions of the so-called Brady bill. That provisions, which the majority introduced separately this week, was not even close to the Dole-Mitchell compromise passed by the Senate.

My record is clear on the gun issue—I have always opposed gun control. My opposition to that shallow solution to crime control is especially dogged when the so-called solution—this conference committee bill—itself is nothing more than a shell of empty promises and it also expands, rather than restricts, the opportunities for criminals to abuse our system of justice.

Let's make no mistake about this: This debate and this cloture is about purely partisan politics. It is an attempt to pump up the Democrats' efforts to take over the White House by misleading the American public.

For over 2 months now, our leadership has been calling upon all Members to come forward with amendments to various bills in a timely manner and to move the appropriations bills promptly so that we can adjourn by October 3. Instead, we are engaging in this exercise—an exercise to generate the stuff for more 30-second spots and election year hype.

Instead, we will dedicate most of today to debating at least three separate motions to invoke cloture on matters that will not become law. In this case, we are rehashing a debate that the Senate has visited twice in the past year—first when the conference committee bill was railroaded through conference, and again a few months ago.

This conference committee bill is a total loser, Mr. President.

The Senate has already recognized that fact twice now. The American people are not being well served this day.

Mr. THURMOND. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Delaware has 1 minute. The Senator from South Carolina has 25 minutes.

Mr. THURMOND. Mr. President, I hold in my hands a letter written to the President of the United States on this very subject by 31 attorneys general; 15 are Democrats, 16 are Republicans. Here are their signatures, signing this letter, opposing this provision, opposing this bill.

I repeat, 31 States' attorneys general—16 Republicans, 15 Democrats—wrote President Bush strongly urging him to veto any bill which contained the habeas corpus provision as contained in this conference report.

They wrote that "any bill containing this weak proposal cannot be described accurately as an anticrime bill but would instead be a procriminal bill and particularly a proconvicted murderer bill." That is what the attorneys general of the States say about it.

Are we willing to listen to them? They are responsible for law enforcement in every State.

Now, the National Association of Attorneys General overwhelmingly passed a resolution urging President Bush to veto the conference report because it adopts provisions that weaken existing law. And here is what they said: "It broadens the range of circumstances in which the convictions of criminals will be reversed."

We certainly do not want to do that, and that is what this conference report does.

The National District Attorneys Association wrote that the conference report "does far more to advance the interests of convicted criminals than it does to protect the law-abiding citizens. In fact, passage of this bill is tantamount to handing the jailhouse keys to thousands of convicted State and Federal prisoners."

They urge the Senate "to reject this poor excuse for a crime control bill."

Now, who was I talking about? I was talking about the National District Attorneys Association that is all over the country—all the States. They went on record urging the President not to sign this bill and stating how dangerous it is.

Twelve Democratic district attorneys, 12 Democratic district attorneys alone wrote a separate letter urging that the conference report be vetoed—12 Democratic district attorneys wrote a separate letter in addition to joining in on the other, "because it contains provisions which would hamstring our efforts to combat crime." That is what they said. Do we want to pass a conference report that will hamstring our efforts to combat crime? That is what the Democratic district attorneys said.

The Conference of Chief Justices, which represents the chief justices of our State supreme courts, oppose the habeas reform contained in the conference report because this is not true reform.

Now, that is the Conference of Chief Justices of the Nation—Conference of Chief Justices—the top judge in every State in the Nation, chief justices. They wrote opposing this matter. Who are we going to listen to?

Numerous victims organizations—and these are the people who have suffered; these are the victims who have suffered from criminals—have written letters opposing the conference report stating that "a vote for the cloture motion is a vote against crime victims. We support S. 2305." And that was the Republican proposal.

"We oppose the conference report." These are the victims of the Nation, people who have been robbed, people who have been raped, and people who have had assaults committed upon them. These victims organizations have gone on record as opposing this conference report.

Attorney General William Barr opposes the conference report stating that the conference report has "let down law enforcement, let down victims, and let down those in Congress who have voted for tough anticrime measures." The Attorney General of the United States. Is the Congress going to listen to him any? Attorney General Barr, what does he say? It lets down law enforcement. It lets down victims. It lets down those in Congress who have voted for tough anticrime measures.

The attorney general of California, for instance, and every single one of that State's 58 district attorneys wrote the Congress urging that this conference report be defeated. They wrote that the measure "provides convicted murderers more opportunities to challenge their convictions instead of less, forces victims and their families to endure more delay and litigation, and makes it more difficult for law enforcement to obtain finality in our criminal justice process."

Now, Mr. President, who are we going to listen to? These are the officials responsible for law enforcement—the attorneys general and all these people.

I want to quote this letter from the National District Attorneys Association. This is written to Honorable GEORGE MITCHELL, Honorable ROBERT DOLE, Honorable THOMAS FOLEY, and Honorable ROBERT MICHEL.

Mr. President, before I do this, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 15 minutes 15 seconds.

Mr. THURMOND. I yield 5 minutes to the distinguished Senator from Idaho.

Mr. CRAIG. I thank my colleague for yielding.

I stand in strong opposition and urge a "no" vote on the cloture motion as it relates to the crime bill conference.

Mr. President, let me speak specifically to a point in this crime bill that is open, often discussed, and found very contentious by many people. That is the issue of a 5-day waiting period on the purchase of a firearm and the instantaneous background check that is proposed within this legislation.

The reason I believe we ought to vote in opposition to cloture is that provision, yes, but, more importantly, language that was put into the conference, Mr. President, that the Senate never voted on and that the House never voted on, new language that no Senator unless he or she has read the fine print of the crime conference knows about.

Let me talk about it for a few moments, because what I am talking about is legislation that the chairman has blinked on and suggested that we can violate civil rights or that we can allow law enforcement officers in this country to violate the civil rights of American citizens and get away with it.

Now, we saw a city burn because it appeared that law enforcement officers had violated the civil rights of Rodney King. We saw a city go down in ashes and a Nation erupt because civil rights were apparently violated.

Let me read the language. "A law enforcement officer or other persons responsible for providing criminal history, background information pursuant to this subsection shall not be liable in an action at law for damages for failure"—for failure—"to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section."

In other words, if they choose to arbitrarily not find the necessary information or cause information not to flow during this background check period that would clear that individual, they are not liable. They are not within the law. They do not have to adhere to the civil rights of that citizen under the Constitution.

Now, I do not know another law of the land we would want to support that would arbitrarily deny someone their civil rights, even as onerous as some of us may believe those rights to be.

I know that a lot of people do not believe in the second amendment rights to our Constitution or they believe that they are malleable or that we can adjust them or change them around a little bit. I disagree with that. I think those rights are absolute. But here we are saying to the law enforcement community, you can blink. We are saying to the local sheriff or the chief of police, if you really do not want guns in your community, you can find a way to disallow it through this method.

Another provision says neither a local government nor any employee of the Federal Government or any State or local government responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages for failure to prevent, for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

There may be a lot of ways to interpret it. I have given you my interpretation. It so happens that attorneys—and I am not one—who are professionals in this area, who hold themselves up to be experts in this area of the law, say that this Senator is absolutely correct.

That is why, Mr. President, we did not vote on this provision in this Senate. That is why the House never voted on it. That is why staff people got together in the conference and conjured up their neat idea that said, "Here is another avenue for disallowing the process to work."

So, in other words, a 5-day waiting period under this law, and a national instant background check under this law, says to those who are responsible for carrying the law out, "If you fail in your actions, you are not liable," and a failure enacted is a denial of a civil right in this country, a constitutional right under the second amendment.

That is why I am in opposition. But I thought our Senators really ought to know what the fine print says. Sometimes it is not wise to read the fine print of a conference report.

But let me suggest that, in the closing days of this session as we are in a rush to get out of here, is it not interesting that we have had so many opportunities to bring up this conference report, and now that Senators are anxious to go home to campaign, it is now time to pass it, it is now time to get it out. Let me suggest, Mr. President, that you and I do not want to intentionally create a law that allows law enforcement officers to act, without liability, to violate the civil rights of the citizens of this country.

A yes vote would do just that.

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

Mr. President, I want to go back to the beginning and basically give a summary of how we arrived where we are and what the choice is. This issue has been debated many times. Rather than debating it all again, I just want to hit the high points.

First of all, 1,237 days ago today the President asked Congress to pass the Nation's toughest and most comprehensive crime bill. That crime bill reinstituted a workable death penalty at the Federal level, had over 70 strong law enforcement provisions related to minimum mandatory sentencing and other anticrime measures, sought to end the endless delays in carrying out justice, sought to eliminate the situation where violent criminals walked the streets because of a technical error in filling out reports, and, in fact, sought to deal with a crisis that faced our bleeding nation as criminals preyed off the health, happiness, and lives of other citizens. That was 1,237 days ago today.

Today, we have yet to pass such a crime bill. We have certainly not passed the President's bill, and we are today looking at a conference report on a product that is totally different from the President's bill.

When we considered the crime bill in the Senate, we adopted many provisions, including 52 tough anticrime provisions. But when the Democrats who run this committee in the Senate and the Democrats who run the committee of jurisdiction in the House met together and wrote the final bill, they dropped some 70 House and Senate provisions that were aimed at grabbing criminals by the throat and not letting them go to get a better grip. I do not want to go through the whole 70. I have done that on another occasion. I simply want to talk about three.

I offered on the floor of the Senate the requirement that, if you are convicted of selling drugs to a minor, no matter who your daddy is or how society may have done you wrong, if you are convicted in the Federal system, you are going to the Federal penitentiary, and you are going to serve every day of 10 years in prison.

The second part of the amendment was, if you got out of prison and you did it again, if you went back and sold drugs to a child again, you got life imprisonment without parole. That amendment was adopted on the floor of the U.S. Senate. That amendment was dropped in conference and is not in this bill; that amendment and 69 others like it.

Another provision that was part of this bill was the so-called three-timer loser provision. What it said is, if a criminal goes out and commits a violent crime or a drug felony, not once, not twice, but three times they are convicted of a violent crime or a drug felony, we decide that maybe the time has come to protect society by putting this person in prison for life.

That amendment was offered on the floor of the Senate, and it was adopted by the Senate. But what happened to it? That provision and 69 others like it were dropped out of this bill in conference.

Amendments were offered to deal with guns, to deal with violent criminals who use guns. The amendments said, if you possess a firearm during the commission of a violent crime or a drug felony, whether you use the gun or not, you are going to prison if you are convicted of possessing that gun independent of the crime you commit other than having the gun, you are going to prison on the gun violation for 10 years, and you are going to serve every single day of 10 years in prison.

If you fire the firearm in the commission of a violent crime or drug felony with the intent to do bodily harm, the amendment says you are going to prison, not 10 years, but 20 years, and you are going to serve every single day of 20 years in the Federal penitentiary.

The amendments further said, if you kill somebody with a firearm during the commission of a violent crime or a drug felony, at a minimum, you are going to spend the rest of your life in prison with no parole, and, in aggravated cases, you are going to be put to death.

Guess what happened to those provisions? The provisions I offered here on the floor of the Senate were adopted overwhelmingly, and yet when the bill came back from conference, they and 67 other provisions were dropped from this bill. In fact, if you go through the Senate bill and the House bill and you look at each one of those bills, almost every grab the criminal by the throat provision was dropped and every soft provision was maintained.

I want to go back over—I know our dear colleague from South Carolina did it once. But I want to be sure that people understand that this bill is not an anticrime bill. You don't have to take just my word. You also have the word of the Senator from South Carolina.

Might I say, Mr. President, I do not know of any man in America who is more committed to protecting law-abiding citizens and grabbing criminals by the throat than our distinguished colleague from South Carolina. I want to thank him for his leadership on this issue. I want to express to him my disappointment that we do not yet have the crime bill that the American people want and need.

When this bill that is before us came out of conference and came to the floor of the Senate for a vote, 31 State attorneys general, 16 of them Republicans and 15 of them Democrats, wrote the President urging him to veto this bill. In fact, the National Association of Attorneys General overwhelmingly passed a resolution urging the President to veto this bill. Let me just read a few things they said.

They said: "This bill weakens existing law, broadens the range of circumstances in which convictions of criminals will be reversed." And then in the letter that they wrote about the bill, they said the following things: the bill "does far more to advance the interests of convicted criminals than it does to protect the law-abiding citizens. In fact, passage of this bill is tantamount to handed the jailhouse keys to thousands of convicted State and Federal prisoners." They go on to say: "Reject ths poor excuse for a crime bill."

Mr. President, I cannot understand why we cannot have bipartisanship in

passing a crime bill. I know an effort has been made. I know the distinguished chairman and Senator THURMOND sat in meetings for months trying to work out a crime bill. I am not trying to impugn the efforts that anybody has undertaken. A lot of good people tried to get something done. The bottom line is that it did not get done. We have before us a bill that is not an anticrime bill, but a bill that actually, in an incredible move, overturns some 22 Supreme Court decisions that, in the last 30 years or so, have strengthened law enforcement.

Mr. President, what are we doing in the name of a crime bill overturning court decisions that have strengthened law enforcement? We ought to be passing laws to help the cops on the beat who are trying to protect law-abiding citizens.

So there is only one way we can get to that: Reject this conference report, and then let us, even in the waning hours of this session, sit down and try to work out a real anticrime bill.

I urge my colleagues to vote no.

Mr. THURMOND. Mr. President, I yield 2 minutes to the Senator from Washington.

Mr. GORTON. Mr. President, our good friend and distinguished Senator from Delaware, the chairman of the Judiciary Committee, I regret to say, made a number of mistakes in connection with the bill which is before us now.

I believe his primary mistake to have been his failure to represent the position carefully thought out and voted upon over an extended period of time by the Senate, with respect to the most controversial issues connected with this bill.

Not only did he fail to represent that position, but he excluded the administration and Members of the Republican Party from any effective voice in writing this proposal. And it is presented to us on a take it or leave it basis. He can hardly expect the support of those who have been excluded from the process and whose views, when they were the views of a majority here in this body, have been ignored and rejected.

Most particularly, in the view of this Senator, he made a terrible mistake in rendering appeals and habeas corpus petitions on behalf of convicted persons more and not less complicated. He has reversed numerous decisions of the Supreme Court of the United States, which lead to both finality and to justice. As a consequence, he has the opinion of the National Association of Attorneys General, an organization of which this Senator was once President, who very substantially opposed to this bill, as not being one which improves the criminal code but which inhibits the search for justice.

For those reasons, regrettably, this cloture motion should be defeated, and we should start over again with a clean slate next year.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute, 23 seconds. The Senator from Delaware has 58 seconds.

Mr. BIDEN. Mr. President, I have been authorized by the leader to use up to 3 minutes of his leader time. So I assume I will have 3 minutes, 58 seconds.

I will respond to the last comment made——

Mr. THURMOND. Mr. President, I want to ask a question. Can someone else use the leader time, or do the leaders have to use it?

The PRESIDING OFFICER. The leaders are authorized to use their time, but the time can be used by others.

Mr. THURMOND. Would he have to be here to authorize that in person?

The PRESIDING OFFICER. The practice of the Senate is for the leader to be able to authorize it and for other Senators to be able to make that assertion without the leader being present.

Mr. THURMOND. We have already extended the time 10 minutes, I believe. We are ready to vote as soon as we can. How did the Chair rule on that?

The PRESIDING OFFICER. That the Senator from Delaware has 3 minutes of the leader time and 58 seconds of his own.

Mr. BIDEN. To my friend from the State of Washington, this legislation has had the most sought after views and effort of any piece of legislation anyone has ever had up here. I have met literally, over 300 or 400 hours, with every single Republican who wished to meet with me, with 16 different Republican Senators, 12 in the leadership office with Senator DOLE, with every single police organization in the country, with the leaders of the National District Attorneys Association, with the people sitting right here, with the Attorney General himself, personally, and with his representative for more time than the Senator from Washington has ever been near the Justice Department. I guarantee you that no piece of legislation has had the views of the U.S. Senate more than this one. No. 1.

No. 2. My friend from Texas, Senator GRAMM, says that he is disappointed that his tough gun provisions and sentencing did not get in. He did not mean it, probably, but his legislation weakened the gun law, because he allows increased penalties to run concurrent with other sentences. The Federal Sentencing Commission points out that the Senator's position weakened the penalties on gun laws, because they run concurrently and do not run as they do now, which is that you get convicted of one crime, of a gun crime, and it gets laid on top of your first conviction.

No. 3. Mr. President, you heard all this talk from the attorneys general and others, allegedly, disregarding that all of the police officers and their organizations support this crime bill—every single one. If that is the concern, I want my friend from South Carolina to listen, because I am about to propound a unanimous-consent request, if the concern is that habeas corpus is so terrible in this bill, and that is what weakens it and makes this a procriminal bill, because that is what the attorneys general say, nothing else, I point out to my friend from the State of Washington and my friend from the State of South Carolina.

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UNANIMOUS-CONSENT REQUEST

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of a concurrent resolution to correct the enrollment of H.R. 3371, the crime bill, that would strike title II, the habeas corpus provisions, from the crime bill; that there be no debate or amendments in order on the concurrent resolution; that the Senate proceed to vote without any intervening action or debate on the adoption of the concurrent resolution prior to the vote on cloture on the adoption of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to ask my distinguished colleague whether he would be willing to accept a compromise that he reached with the Attorney General. That bill would include, as I understand—and we cannot amend a conference report, but we can introduce another bill today, if he will agree.

Mr. BIDEN. Mr. President, is there objection to my unanimous-consent request?

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Reserving the right to object, until we know more about what it is, yes. If the two Senators want to work something else out, I object now, and I will suggest the absence of a quorum.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I ask my distinguished colleague this: You worked with the Attorney General on the bill, and we understood you reached an agreement.

Mr. BIDEN. Not so.

Mr. THURMOND. He says you did.

Mr. BIDEN. No, he does not.

Mr. THURMOND. We will go from here. Would you agree that you and I introduce another bill today—listen now—that would include the Senate passed Brady provision, the administration's death penalty, no exclusionary rule, the power to make a habeas

corpus proposal, and all the money for law enforcement. Would you agree to join me in introducing such a bill today?

The PRESIDING OFFICER. The time allotted to the Senator has expired.

The Senator from Delaware has 1 minute and 10 seconds.

Mr. BIDEN. The answer is "no."

Mr. THURMOND. There you go. I knew that would be the answer.

Mr. BIDEN. Mr. President, with the remaining time I have, the Attorney General and I reached no agreement on that. I never said we reached an agreement on that, No. 1, and No. 2, I want to point out that last night the police mediating the agreement of the Attorney General and me to reach a compromise in this reached the solution and came up like mediators do with a proposal. We agreed to pursue it. The Attorney General concluded he could not live with it. Therefore, the old sticking point is habeas corpus. I agreed to drop it out, if it is so bad. It is not so bad. But I did it anyway. If it is so bad drop it out of the bill. I made that proposal. Within the rules I am able to do that. Obviously, they did not want to do that.

This is all about guns, Mr. President. We have 55 to 57 votes for this. We have been prevented for 300 days. There has been a filibuster to prevent us from voting on a tough crime bill.

I yield back my time.

Mr. THURMOND. Mr. President, I understand the time out.

I ask unanimous consent to print two letters here from the Attorney General in the RECORD confirming that agreement.

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

OFFICE OF THE ATTORNEY GENERAL,
*Washington, DC, September 25, 1992.*

Hon. JOSEPH R. BIDEN, Jr.,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: As you outlined with me orally Wednesday night, and as further discussed yesterday, the following are the elements of a possible compromise crime bill:

1. The President's death penalty provision (set forth in the Gekas amendment passed by the House this Congress) plus a provision on jury instructions—attached at Tab A;

2. The Powell Commission habeas corpus provisions (set forth in the Hyde amendment passed by the House in 1990);

3. Your authorization provisions (see attachment at Tab B) plus the equal funding for habeas provision [section 208 of the conference report] as you and I discussed;

4. The Mitchell/Dole waiting period provision from the conference report [Title V Subtitle A] with proposed new section 18 U.S.C. 922(s)(7)(B) deleted, so that proposed new section 18 U.S.C. 922(s)(7) now reads:

"(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages for failure to prevent the sale of transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.";

and

5. No other provisions will be included in the package unless mutually agreed upon by us.

This letter will confirm, as you were told yesterday, that this package would be acceptable to the Administration.

Sincerely,

WILLIAM P. BARR,
*Attorney General.*

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COMPROMISE LANGUAGE ON IMPOSITION OF DEATH PENALTY

On page 30 of S. 2305, line one, after "factors." add the following:

"In weighing aggravating and mitigating factors, the jury, or if there is no jury, the court, shall consider both statutory and non-statutory mitigating factors, and any member of the jury who finds the existence of a mitigating factor and any member of the jury who finds the existence of a mitigating factor as provided in subsections (c) and (d) may consider the factor regardless of the concurrence or non-concurrence of other members of the jury concerning the establishment of the factor."

On page 30 of S. 2305, line ten, after "warrants." add the following:

"The jury shall be further instructed that the court will impose a sentence other than death that is authorized by law if the jury does not recommend a sentence of death. The jury shall be informed of the sentences other than death that are authorized by law for the offense or offenses for which the death penalty is sought, including the fact that life imprisonment without possibility of release is an authorized sentence."

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1991 CONFERENCE REPORT TO ACCOMPANY H.R. 3371

| Program | Authorization | Body | S. 2305 |
|---|---|---|---|
| Brady bill | $100,000,000 | Senate | No. |
| National Child Protection Act (§ 911). | 20,000,000 | do | Yes (§ 741). |
| Safe Streets (§ 1101) | 1,000,000,000 | do | Yes (§ 901). |
| DNA Identification (§ 1121). | 2,000,000 | House | Yes (§ 1288). |
| DOJ Community Substance Abuse Prevention (§ 1131). | 15,000,000 | do | Yes (§ 1062). |
| Cop-On-The-Beat (§ 1151) | 150,000,000 | do | Yes (§ 961). |
| Drug Testing Upon Arrest (§ 1161). | 100,000,000 | do | Yes (§ 1064). |
| Midnight Basketball (§ 1181). | 2,850,000 | do | No. |
| Juvenile Drug Trafficking and Gang Prevention (§ 1191). | 100,000,000 | Senate | Yes (§ 511). |
| Trauma Centers (§ 1195) | 50,000,000 | House | Yes (§ 995). |
| Alternative Punishment for Young Offenders (§ 1198). | 200,000,000 | do | Yes (§ 523). |
| Law Enforcement Family Support (§ 1201). | 5,000,000 | do | Yes (§ 993). |
| Police Corps (§ 1231) | 100,000,000 | Senate | Yes (§ 935). |
| Law Enforcement Scholarships (§ 1241). | 30,000,000 | do | Yes (§ 942). |
| Federal Law Enforcement Agencies (§ 1301). | 345,000,000 | do | Yes (§ 1402). |
| DEA | 100,500,000 | | |
| FBI | 98,000,000 | | |
| INS | 45,000,000 | | |
| U.S. Attorneys | 45,000,000 | | |
| U.S. Marshals | 10,000,000 | | |
| BATF | 15,000,000 | | |
| U.S. Courts | 20,000,000 | | |
| Federal Defender Service. | 12,000,000 | | |
| U.S. Attorney's Office | 35,000,000 | Senate | Yes (§ 1284). |
| Drug Treatment in Federal Prisons (§ 1404). | such sums | do | No. |
| Regional Prisons (§ 1405) | 700,000,000 | do | No. |
| Boot Camps (§ 1406) | 150,000,000 | do | No. |
| Residential Substance Abuse Treatment for Prisoners (§ 1421). | 100,000,000 | House | Yes (§ 1063). |
| Mandatory Literacy (§ 1422). | 10,000,000 | Senate | Yes (§ 994). |
| Rural Law Enforcement (§ 1501). | 50,000,000 | do | Yes (§ 1054). |
| Rural Drug Enforcement Training (§ 1504). | 1,000,000 | do | Yes (§ 1053). |
| Rural Drug Prevention (§ 1511). | 25,000,000 | do | Yes (§ 1055). |
| Drug Emergency Areas (§ 1601). | 300,000,000 | House | Yes (§ 1061). |
| Missing Alzheimers Patients (§ 2101). | 1,000,000 | Senate | Yes (§ 991). |
| Safe Schools (§ 2901) | 100,000,000 | House | Yes (§ 1289). |

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1991 CONFERENCE REPORT TO ACCOMPANY H.R. 3371—Continued

OFFICE OF THE ATTORNEY GENERAL,
*Washington, DC, September 25, 1992.*

Hon. JOSEPH R. BIDEN, Jr.,
*Chairman, Committee on the Judiciary, United States Senate, Washington, DC.*

DEAR MR. CHAIRMAN: I received your letter of September 25. I must disagree with your recounting of events.

First, your statement that the Administration never showed any willingness to move beyond our first position on habeas is simply not true. We have come a long way. We dropped "full and fair" and court time limits.

I must also disagree with your characterization of our September 23 evening discussion as you merely offering to try to sell my best offer. On the contrary, we negotiated a package that we both agreed was an acceptable basis for compromise and would actively try to sell to our principals. In this context, you specifically agreed to accept "pure" Powell as part of the package. Further you insisted that we drop court time limits on habeas in return for the President's death penalty, which I agreed to.

It certainly was not my understanding that you would wait to hear back from me before discussing the compromise package with your colleagues. My recollection, as confirmed by your staff the next morning, was that we would both simultaneously try to sell this 4-point compromise to our principals. And I did that.

I certainly don't recall anything about a 12:00 noon deadline, and, in any event, I understand that Jim Baker placed his first call to you before noon and placed a second call at 12:40; these and further calls were not returned by you to Mr. Baker until late in the day. In any case, I cannot understand how a deal that would have been acceptable at 12:00 noon would not be acceptable shortly thereafter.

Your counterproposal seems to be a hardline retread of positions you took much earlier in the negotiations. Your counterproposal on habeas is one that you know is unacceptable; it is precisely the same proposal that you acknowledged Wednesday afternoon could not be a basis for compromise.

I urge you to proceed with the 4-point compromise we crafted Wednesday night and which the Administration has accepted. It reflects a true compromise, and it is certainly the best chance to get any legislation passed. There is little doubt that, if the leadership permits a vote on this package, it would pass both houses by substantial margins.

I urge you to move forward with the package we agreed upon Wednesday night.

Sincerely,

WILLIAM P. BARR,
*Attorney General.*

Mr. BIDEN. Mr. President, I ask unanimous consent that the statements of Dewey Stokes, president, National Fraternal Order of Police, and Sarah Brady be printed in the RECORD.

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

[Transcription of Crime Press Conference, Oct. 1, 1992]

STATEMENT OF DEWEY STOKES, PRESIDENT, NATIONAL FRATERNAL ORDER OF POLICE

Since November, when this went into what I call gridlock seventeen thousand people have died, many more wounded, and I asked the Congress, those Senators, to look in the eyes, the victims, the victims of these crimes. Sarah Brady is a victim of this crime. How can four of you deny two hundred and fifty-five million Americans, the right to bring about crime control and a crime bill that will stop some of the violence in America. How can you do that? Whoever you are, whether you are Republican or Democrat, you are elected to represent the people of the United States. At every poll, even the NRA poll of the membership, says we want the Brady Bill. We don't see any impediment. It does not deprive them of the right to own a firearm, under no circumstances. It gives us the right to make sure that those people who buy a firearm are not a convicted felon and are not mentally incompetent. And to stop a crime bill that is going to protect our people our law enforcement officers on the streets the highways and the institutions of this country is repulsive to me, and it should be to the American people. I would ask you to ask them, "Call those Senators. Give us the privilege and the right to listen to the vote of America."

STATEMENT OF SARAH BRADY

The law enforcement community and I started about six years ago working for the Brady bill. We have been to more press conferences together than you could shake a stick at. We have met all over the country and we've been fighting for one thing. During those six years, three Congresses, over 100,000 people have died, cops getting shot, I keep getting heckled, more cops died, and nothing has happened. And here we are at the very end of yet another Congress, where at the bitter end something has to happen, and I am going to be sure it does this time. I am tired of listening to excuses. I am tired of having to go back to the people all over this country who support us and say that politics as usual is keeping us from passing the Brady bill legislation that will save lives in this country. We're going to get it done this time. And tomorrow we have a sure-fire way of doing it. And I am going to say "Shame on any Member of Congress who keeps that from happening, "Shame" on any member of the administration that keeps that from happening. We have got to save lives today. Otherwise, we lost sixty five within the next twenty four hours, and sixty five more lives the next day, cops will continue to get shot, and I will continue to get heckled, but the lives cannot go on.

## CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

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 the debate on the conference report to accompany H.R. 3371, the omnibus crime control bill:

Kent Conrad, Herb Kohl, George Mitchell, David Pryor, Joe Biden, Wyche Fowler, Jeff Bingaman, Al Gore, Tom Daschle, Tim Wirth, Jim Sasser, Richard Bryan, Edward M. Kennedy, John F. Kerry, Daniel Moynihan, Christopher Dodd.

## CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent the call of the roll, pursuant to rule XXII, is waived.

## VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Omnibus Crime Control Act conference report accompanying H.R. 3371 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 Nevada [Mr. REID] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The yeas and nays resulted—yeas 55, nays 43, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—55

| | | |
|---|---|---|
| Adams | Exon | Metzenbaum |
| Akaka | Ford | Mikulski |
| Baucus | Fowler | Mitchell |
| Bentsen | Glenn | Moynihan |
| Biden | Gore | Nunn |
| Bingaman | Graham | Pell |
| Boren | Harkin | Pryor |
| Bradley | Hollings | Riegle |
| Bryan | Inouye | Robb |
| Bumpers | Jeffords | Rockefeller |
| Burdick, Jocelyn | Kassebaum | Sanford |
| Byrd | Kennedy | Sarbanes |
| Chafee | Kerrey | Sasser |
| Conrad | Kerry | Simon |
| Cranston | Kohl | Wellstone |
| Daschle | Lautenberg | Wirth |
| DeConcini | Leahy | Wofford |
| Dixon | Levin | |
| Dodd | Lieberman | |

NAYS—43

| | | |
|---|---|---|
| Bond | Grassley | Pressler |
| Breaux | Hatch | Roth |
| Brown | Hatfield | Rudman |
| Burns | Heflin | Seymour |
| Coats | Helms | Shelby |
| Cochran | Johnston | Simpson |
| Cohen | Kasten | Smith |
| Craig | Lott | Specter |
| D'Amato | Lugar | Stevens |
| Danforth | Mack | Symms |
| Dole | McCain | Thurmond |
| Domenici | McConnell | Wallop |
| Garn | Murkowski | Warner |
| Gorton | Nickles | |
| Gramm | Packwood | |

NOT VOTING—2

| | |
|---|---|
| Durenberger | Reid |

The PRESIDING OFFICER (Mr. BRYAN). On this vote, the yeas are 55, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I am pleased to say righteousness prevailed on that vote. Although we did not pass a tough crime bill, I would like to thank my staff, who worked tirelessly in this endeavor. Manus Cooney provided able counsel, as did Thad Strom. Beverly Gastright and Krista Ellis also provided valuable assistance.

Mr. BIDEN. Mr. President, I ask unanimous consent to speak for 1 minute.

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

Mr. BIDEN. Mr. President, I do not have a claim on righteousness. I am extremely disappointed we are going to adjourn without having done anything on the crime bill. I stand ready to work with my friend from South Carolina next year to try, once again, to get a crime bill.

I thank my colleagues for their indulgence.

Several Senators addressed the Chair.

The PRESIDING OFFICER. There is a regular order.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to say we can pass a crime bill today with what I understood had been agreed to with the Attorney General anyway. It would include the Brady bill, the Powell committee recommendation on habeas corpus, President Bush's death penalty bill, and all of the proposed funding. If the distinguished Senator from Delaware wants to work with me, we can get a bill today and pass it.

## NATIONAL INSTITUTES OF HEALTH AUTHORIZATIONS

MOTION TO PROCEED

The PRESIDING OFFICER. There will now be 1 hour equally divided for debate on the motion to proceed to S. 2899.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I know the Senator from Massachusetts is anxious to move forward. I know the Senator from North Dakota and myself would like to say a few words. I do not know the subject she would like to speak about. I would like to speak about the defeat of this and the relationship to the Brady bill. She needs 3 minutes, and I need 10 minutes. Would the Senator from Massachusetts object to a unanimous-consent request?

Mr. KENNEDY. Mr. President, in my heart, I would be glad to accommodate.

The majority leader has set times to proceed. I am trying to conform with what he indicated to me.

Mr. METZENBAUM. He knew we were going to make this request. I just feel so strongly about what has just transpired that I would like to take a few minutes to express myself.

The PRESIDING OFFICER. As the Chair understands the parliamentary situation, it would require unanimous consent of the body to provide the time that is requested by the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the regular order be set aside for a period of 3 minutes for the Senator from North Carolina [Mrs. BURDICK], and 10 minutes for the Senator from Ohio, with no intervening business and having no further impact upon the regular order as has been provided heretofore.

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

Mrs. BURDICK addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mrs. BURDICK. Mr. President, I ask unanimous consent that I be recognized to speak for 3 minutes as in morning business.

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

THANKS FOR WARM WELCOME AND SUPPORT

Mrs. BURDICK. Mr. President, I want to thank each and every one of the Members of this distinguished body for the warm welcome and support I have received in my short time as a U.S. Senator.

My husband served in the Senate throughout our 32 years of marriage, always putting North Dakota's interests first. I have tried during these short weeks to complete Quentin's unfinished business, to assist his excellent staff as they explore new challenges, and to represent North Dakota's interests in all matters before the Senate. I hope that in some small measure, I have met each of those goals.

My husband was the first Democrat North Dakotans ever elected to the U.S. House of Representatives. I am honored to be the first woman to represent North Dakota in Congress. My appointment also made history for being the first time three women have served in the U.S. Senate at the same time. I hope that the 103d Congress will find many more women seated in this body.

My great grandmother, Matilda Joslyn Gage, was an early suffragist and feminist theologian who fought on the front lines of the struggle for human freedom, dignity, and the vote for women. She had a motto: "There is a word sweeter than mother, home, or heaven. That word is liberty."

To further the goal of liberty and the cause of equal rights, I have asked to be added as a cosponsor of the equal rights amendment, the Freedom of Choice Act, the Economic Equity Act, the Violence Against Women Act, and the Women's Health Equity Act. I am also proud to have cast my votes to override the President's vetoes of the Family and Medical Leave Act and the Pregnancy Counseling Act.

It is a tremendous honor for me to serve in this body. Once again, thank you.

The PRESIDING OFFICER. The Senator from Ohio is recognized pursuant to the unanimous-consent agreement.

Mr. METZENBAUM. Mr. President, I want to first commend my colleague, Senator BURDICK, for her remarks. More important, I wish to commend her for her able service. She has filled the shoes of our distinguished friend and colleague, Senator Quentin Burdick, and we are all very pleased and privileged to have had an opportunity to work with her.

She has attended to her duties properly and promptly and has been willing to stand up and be counted on the issues. I consider it a real privilege that I have had a chance to sit next to her during this period.

We are going to miss her.

Mr. KENNEDY. Mr. President, I, too, want to join in commending Senator BURDICK. As I mentioned on other occasions, I had a chance to serve with Senator Quentin Burdick for a considerable period of time, since he was an institution in the Senate when I first arrived here.

I have noticed over the period of these last days Senator BURDICK pouring over reports, reading majority and minority opinions about different parts of the legislation. That is something all of us are supposed to do. I notice Senator BURDICK developing a command of these complicated issues in a very thoughtful and studious way and bringing a very important and balanced judgment to these matters.

I, too, join in commending her and pay tribute to her and to the people of North Dakota for giving us the opportunity of serve with her.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the time taken up between Senator KENNEDY and myself in connection with Senator BURDICK'S remarks not be charged against the time.

Mr. CONRAD. Will the Senator from Ohio yield for a brief comment?

Mr. METZENBAUM. Of course. I did not know the Senator was seeking the floor. I apologize.

Mr. CONRAD. I thank very much my colleague from Ohio.

I wanted to add my voice, Mr. President, to those who have spoken about my colleague, Senator BURDICK. It has been an absolute joy to have her join us in this Chamber. She has proved to be extraordinarily diligent in the work of the Senate, and I think we find a true affection in this body for her. I only wish that her service in this Chamber were going to be longer because I think she has already demonstrated she is an outstanding Member of the Senate.

She is independent minded; she is strong; she is an advocate for our State; and I think she is the best kind of U.S. Senator. I thank the Chair, and I thank my colleague from Ohio.

## OPPOSITION TO THE BRADY BILL

Mr. METZENBAUM. Mr. President, the American people have just suffered a tragic loss. Let us not kid ourselves. The conference report on the crime bill was killed because of opposition to the Brady bill.

The President and my colleagues on the other side of the aisle have used habeas corpus as a smokescreen. We have fiddled while felons continue to buy guns without any difficulty. We have fiddled while the police plead for the Brady bill. We have fiddled while the American people wonder why this commonsense measure cannot become law.

The most effective anticrime provision in the conference report is the Brady bill. It will keep guns out of the hands of felons. The Brady bill will save lives and be of tremendous help to the police of this country. They supported it wholeheartedly. This Congress, this Senate has let them down. My colleagues on the opposite side of the aisle and the President of the United States have turned their backs on the police of this country.

I fear that the President and his allies in the Senate would rather carry out the will of the National Rifle Association than carry out the will of the American people. The Brady bill passed the Senate by a 2-to-1 margin last year. Polls show that over 90 percent of the American people support this measure. Every single major law enforcement organization in the country supports the Brady bill. Four former Presidents—Presidents Reagan, Carter, Ford, and Nixon—support this measure. And you would be hard pressed to find a major newspaper anywhere in the country that opposes the Brady bill. There are not too many pieces of legislation that command that kind of support. But then there are not too many pieces of legislation that are as sensible as the Brady bill.

Here is a measure which can work and is supported by an overwhelming majority of the American people, by an overwhelming majority of gun owners, and by law enforcement. The American people are right to wonder why cannot this piece of legislation pass? Why cannot it be enacted into law?

The failure to enact the Brady bill is a textbook example of why the American people are losing their faith and confidence in our ability to address the Nation's problems.

The President has the failure of the Brady bill lying right on his doorstep. He opposed it. My colleagues on the other side of the aisle, with few exceptions, opposed it.

A well-funded, single issue, special interest group, the National Rifle Association, has turned this issue into a litmus test, and the President and many Members of Congress have shown themselves to be unwilling to stand up to this special interest group and do what is right for the American people.

Those who object to the Brady bill want to thwart the will of the overwhelming majority of our citizens. They would rather cave in to the wishes of the special interest extremists at the NRA than enact a special measure that will save lives and help the police.

NRA is wrong on this issue, and so is the President of the United States, dead wrong. But that is no surprise. The NRA has vehemently fought every reasonable piece of firearms legislation that has come down the pike. It does not matter to the NRA that the American people want the Brady bill. The NRA does not care that the vast majority of gun owners want the Brady bill. And the NRA does not even care that the police officers of this country are pleading with the Congress to enact the Brady bill so that they can feel just a little safer as they go about their job.

No; Mr. President, the NRA does not care what the cops think about this amendment. When the police officers plead for enactment of the Brady bill, time and time again the NRA responds by saying in essence that the cops do not know what they are talking about. The NRA's Washington lobbyists think they know better. That is absurd. Who do you think knows what is better for the cops on the street, the police officers themselves or the NRA's Washington lobbyists? We should have the courage to stand up to the NRA and do the right thing.

On September 28 of this year, former Presidents Reagan, Carter, Ford, and Nixon wrote a letter urging Senators to "put aside partisan politics and do what is right for the American people." The letter went on to say that these four former Presidents "strongly urge every Senator to stand up for the Nation's law enforcement community as well as for public safety by voting for the Brady bill and sending it immediately to President Bush, whom we urge to sign this important bill."

That letter from the last four Presidents of this country underlines the broad support for the Brady bill. The support is broad for the simple reason that the Brady bill makes sense and the American people want it to become the law of the land.

There is still time to enact the Brady bill. I call upon the President of the United States to send word to those who work with him on the other side of the aisle to join with us, let us pass the Brady bill in the closing days of the session. We can do it if the President will put his shoulder to the wheel and prevail upon those who stand in the way of progress on this important subject. We can save lives.

Let us go out of the Senate in a blaze of glory knowing that we have passed the Brady bill and that the President of the United States has pitched in to help, not to deter its passage.

Mr. President, I thank my colleague from Massachusetts for devoting me this extra time. I yield the floor.

## THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

### CLOTURE MOTION

The PRESIDING OFFICER. Under the regular order, there will now be an hour for debate equally divided on the motion to invoke cloture on the motion to proceed to S. 2899, which the clerk will report.

The 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 the debate on the motion to proceed to S. 2899, a bill to revise and extend programs of the National Institutes of Health:

Paul Simon, Harry Reid, Frank Lautenberg, George Mitchell, Carl Levin, Jim Sasser, Joe Biden, Daniel K. Inouye, Alan Cranston, Tom Harkin, Edward M. Kennedy, Howard Metzenbaum, John F. Kerry, Paul Wellstone, Jay Rockefeller, and Brock Adams.

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

Mr. President, the legislation now before the Senate to reauthorize the National Institutes of Health is a major opportunity to enhance America's leadership and excellence in biomedical research through the end of this century.

The pending bill is a modified version of the legislation that passed the Senate on June 4 by a vote of 85 to 12. It was vetoed by President Bush, and the House of Representatives failed by 14 votes to override the veto. Because this issue is so important, we are trying again, with compromises on several key issues, including fetal tissue transplantation research, in the hope that this important bill can be enacted into law this year.

This new bill is a good-faith effort to meet the concerns raised by the President in his veto message.

The most controversial issue continues to be fetal tissue transplantation research. The new bill gives the President's proposed tissue bank a year to become operational, starting from last May 19, the date of the President's Executive order establishing the bank. After May 19, 1993, researchers must continue to apply to the bank for tissue, but if the bank is unable to provide suitable material, the researchers are then free to obtain it from other sources.

The new bill contains all the safeguards in the previous bill to prevent abuses in fetal tissue transplantation research. Under these safeguards, a clear separation is maintained between a woman's decision to have an abortion and her decision to donate the tissue for research.

Many of us have serious reservations about the tissue bank proposal, which would restrict tissue to what is available from spontaneous abortions and ectopic pregnancies. The administration's estimates of the amount and quality of the tissue that would be available from the bank under these limitations are extremely dubious, and may well bear no relationship to reality. Many NIH officials themselves are clearly blowing the whistle on the bank as a realistic option. They are obviously extremely upset over the way these estimates were prepared and furnished to Congress. There are serious doubts that the tissue will be suitable for research. A top NIH official is reported as saying that senior HHS officials, in fact, misrepresented the amount of tissue that could be collected for the bank each year.

A group of researchers at Columbia University who conducted a study of tissue obtained from all spontaneous abortion specimens at a large Manhattan hospital from 1974 to 1986 have stated categorically that the current NIH plan for the tissue bank cannot be expected to produce sufficient numbers of usable specimens of fetal tissue for research.

Our concern is that political ideology is overruling basic science, and that the research doctors at the NIH are being abused by the spin doctors at White House. NIH has earned enormous credibility with Congress, the country, and the world. Researchers are clearly distressed at what HHS is saying and doing in their name. If this tissue bank is the sham it now seems to be, then valuable research is being unconscionably delayed.

The compromise proposal in this legislation is eminently reasonable. We have given the administration the benefit of the doubt—for another year. If this tissue bank goes the way of the S&L banks, then beginning in May of 1993, scientists will finally have an effective source of tissue for their research. And the victims of Parkinson's disease, Alzheimer's disease, diabetes, spinal cord injuries, and other presently incurable afflictions will have the new hope that they deserve, and that has been unreasonably denied the past 5 years.

The issue is not whether abortion is legal or not. It is what happens after an abortion, and whether tissue from an abortion may be used to save another life, or must be simply thrown away.

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This bill will not cause more abortions. Women do not have abortions in order to donate to research. After 5 years of debate and a thorough review of other research projects around the world, there is no evidence that such research is any incentive whatsoever to abortion.

The question is whether urgently needed medical research is to be carried out in accord with sound medical research priorities and public health priorities, or whether it is to be dictated by the most extreme zealots at the Republican Convention in Houston.

Every citizen has a stake in this legislation. Every family that has suffered the tragedy of Alzheimer's disease in a loved one has a stake in this legislation. Every family that has suffered from diabetes, or Parkinson's disease, or a spinal cord injury has a stake in this legislation, because research involving fetal tissue may hold the only hope of medical progress against these devastating afflictions. Those who delay such research because they want to play the rightwing politics of abortion are playing with real people's lives in every community in America.

In his other objections to the bill, the President opposed the levels of the authorizations, and the method of appointment of the Ethics Advisory Board. Our bill makes the following modifications to address these concerns.

First, the earlier bill contained 17 specific authorizations for fiscal year 1993, and authorized such sums as may be necessary for fiscal years 1994 through 1996. The administration objected to the specific levels, and 13 of the 17 have been modified to such sums as may be necessary for 1933.

Because of their special importance, four specific authorization for 1993 were not changed, relating to breast cancer, other gynecological cancers, prostate cancer, and osteoporosis research.

Second, in the original legislation, if the Ethics Advisory Board found that proposed research was ethical and should proceed, the Secretary could not override the decision. In response to concerns that the Secretary should have the final say in such matters, a provision has been added to allow the Secretary to review the decision of the board and set it aside, if the Secretary finds that the Board's decision is arbitrary and capricious. This common and well-known standard of review will provide both the researchers and the Secretary with clear guidance on the course to be pursued.

The opposition to this legislation is also delaying another vital area of research and reform. The women's health provisions of this bill are critical. Progress is being made at the NIH because of the leadership of Dr. Bernadine Healy. But we have no guarantee that this progress will continue under future NIH Directors.

For many years, women have been shockingly neglected in clinical research. In 1985, the Public Health Service Task Force on Women's Health Issues released a report assessing the status of women's health. One of the task force's principal recommendations was that biomedical and behavioral research should be expended to assure adequate emphasis on diseases prevalent among women in all age groups.

The failure to include women as subjects of research at NIH has had serious consequences. Heart disease claims the greatest number of women's lives. Yet all of the major studies on the causes and prevention of heart disease have been limited to men.

A 1988 study of 22,000 physicians funded by the Heart, Lung, and Blood Institute found that aspirin prevents heart attacks in men. Doctors subsequently recommended that older men at increased risk for heart disease take an aspirin every other day. They specifically stated, however, that they could not offer women the same advice. That discrepancy is a shocking indictment and proof of blatant sexism in medical research that must be rooted out immediately.

In addition, no women were included in a major study that examined premature heart disease in 13,000 men over a period of 15 years. Nor were women included in the 15-year coronary primary prevention trial that studied the effects of lower cholesterol levels in 4,000 men, despite evidence that women's cholesterol levels typically increase after menopause and are affected by factors such as smoking or the use of oral contraceptives.

The lack of research on women's health has resulted in second rate care for women. Recent studies show that women receive less effective health care than men in many other ways, not just in treating heart disease.

This legislation establishes permanent statutory authority for the Office of Research on Women's Health to oversee new plans and policies for addressing women's health concerns in each of the NIH institutes. It specifically requires women to be included in research projects supported or conducted by the NIH.

More than 180,000 cases of breast cancer will be diagnosed in 1992, and 46,000 women die from the disease. Every 12 minutes a woman dies of breast cancer. One in every nine American women will develop breast cancer at some point in their lives. The incidence of breast cancer is lower in African-American women than among white women, but the death rate for breast cancer is higher than in white women. If we relegate breast cancer research to second-class status, we cannot effectively target strategies for prevention, cure, and treatment. We must develop new avenues of research and attract new investigators. Research funding must be increased to support these efforts. New research initiatives are needed.

Ovarian cancer is the fifth leading cause of cancer death in women. Every year 20,000 new cases are diagnosed and 12,000 women die from the disease; 13,000 cases of cervical cancer are diagnosed each year and 6,000 women die from it.

NIH has not done enough in any of these areas. During fiscal year 1992, the National Cancer Institute will spend $133 million on breast cancer research, $32 million on cervical cancer research, $10 million on uterine cancer research and $20 million on ovarian cancer research. The NCI by-pass budget, reflecting the professional judgment of the National Cancer Institute, feels that a fiscal year 1993 budget of $430 million is needed to continue progress in the prevention and treatment of breast and other gynecological cancers.

The pending bill authorizes the National Cancer Institute to expand, intensify, and coordinate all these research efforts. The NCI would develop a comprehensive plan emphasizing prevention, early detection and treatment of breast cancer. It would submit to Congress a biennial report on all activities, a description of the plan, an assessment of its implementation, and an evaluation of the progress made in research on cancer in women.

The bill authorizes an additional $325 million to expand breast cancer research activities and an additional $75 million for ovarian, cervical, and other cancers of women's reproductive system.

Osteoporosis affects 24 million Americans. Its prevalence is expected to double in the next 30 years because of the aging of the population. It is responsible for over 1 million fractures a year in women. The rate of hip fractures is two to three times higher than for men. Spinal osteoporosis is eight times more likely to afflict women then men.

Currently, the annual cost of treating osteoporosis is $10 billion. The average cost per hip fracture patient requiring hospitalization and institutionalization is approximately $30,000. These costs are expected to increase as the baby boom generation retires. If current trends continue, the cost will reach $30 billion a year in 30 years. The pending bill authorizes $40 million to intensify basic, clinical, and behavioral research on osteoporosis and related bone disorders, and to establish an information clearinghouse to enhance the understanding of bone disorders by health professionals and the public.

These women's health provisions are essential to assure that the history of neglect of women's health will not be allowed to continue. The women of America deserve their fair share of health research conducted with Federal funds. They deserve a chance to participate in clinical trials. They deserve

a change to lead healthy and fulfilling lives. A veto of this bill would be unconscionable. It would elevate the ideological politics of extremists on abortion over the reality of the need to end the shocking discrimination that exists in women's health research.

This legislation is far more than lifting the ban on fetal tissue transplantation research, important as that is. In addition to the women's health initiatives, it also contains the following priorities:

A separate children's vaccine initiative to develop affordable new and improved vaccines for the prevention of other infectious diseases.

A study of the safety and effectiveness of HIV vaccines for treatment and prevention of HIV infection in women, infants, and children.

A program to increase the competitiveness of research proposals in states whose facilities have experienced low success rates in obtaining research awards from the NIH.

A prostate cancer research program to expand and strengthen this research at the NIH. A prostate cancer prevention program at the CDC will provide early detection, screening, and prevention services for high-risk and low-income individuals.

A child health research center program to speed the transfer of knowledge gained from basic research to clinical applications that will benefit the health of children. Centers for basic and clinical research on cardiovascular disease in children will also be established.

A juvenile arthritis program to expand research into the cause, diagnosis, early detection, control, treatment, and rehabilitation of children suffering from arthritis and related diseases.

New Federal policies will be developed on scientific misconduct, conflicts of interest, and prevention of retaliation against whistleblowers in connection with NIH research.

The past decade has confirmed the wisdom of funding for biomedical research. The NIH continues to produce impressive advances that improve the health of people everywhere. Over the past 2 years, we have witnessed tremendous growth in our understanding of disease. In areas such as the identification of the cystic fibrosis gene, NIH-supported research has resulted in numerous practical applications that bring the benefits of research to the bedside of the patient as rapidly as possible.

We all know the vital importance of biomedical research and the central role of the NIH. This major legislation should never have been vetoed in the first place. With these good-faith revisions, this compromise bill deserves to be enacted, and I urge the Senate to approve it by a margin sufficient to demonstrate that any veto would be overridden.

President Bush knows what is in this legislation. It would be an outrage if the President hides behind the 10-day period he has to sign it, and then pocket vetoes it to prevent Congress from acting to override the veto.

I want to, at the outset of this debate, commend the Senator from Washington for all of his work, particularly on the fetal transplantation issue. We have not been able to have an NIH bill that has dealt with that issue for a number of years, and I think to the greatest extent, the work that the Senator has done and the hearings that were held, helping to respond to many ideological issues and questions and to it in a responsible way, has added immeasurably to this very important phase of this particular legislation.

I also commend Senator MIKULSKI from Maryland, who was instrumental in fashioning and shaping the women's health package.

I thank the Senator from Washington.

Mr. ADAMS. Mr. President, I thank the chairman of the committee for his kind remarks and I express my appreciation to him for the great work he has done during this last year. I think that was a magnificent statement the chairman gave on the movement on women's health issues, in this Senate and on the particular importance of lifting the ban on fetal tissue transplantation research.

I agree completely that this should not be a political issue. I am hopeful that the Senator from Utah, who is my good friend, and who has been very cooperative on the committee, might help us pass this legislation. I hope in particular he would help with this cloture motion, so that we can pass legislation on behalf of the National Institutes of Health.

Many of my colleagues have come to me and asked, "Why do we have to take this bill up again when we adopted it 87 to 10 last April?"

Well, the reason is that the President vetoed this bill, and it is my understanding that the veto was primarily because of the fetal tissue transplantation research provision. I held the hearings, and I have dealt with the people most affected by this matter. I feel strongly about it. I have talked with many doctors about it and I have talked to the people who suffer from diseases. These people look forward with some hope to advancing this research—this is their only chance and only hope.

We have tried to compromise with the Senator from Utah, with this bill before us. I think it is a fair compromise, and I hope he supports us on this. I hope he supports it, because I would like to see 100 votes in support of this cloture motion.

Let me talk about why it is so vital that we pass this legislation today. Let me explain what the emergency is.

First, there are too many lives at stake. There are millions of Americans with juvenile diabetes, which can cause early blindness and early death; Parkinson's disease; Alzheimer's disease; spinal cord injuries; inborn genetic diseases; and they cannot wait for a cure any longer. People forget that the polio vaccine by Dr. Salk came from fetal tissue research.

I want to explain a case to show you why this research is important for people who are living today with these other diseases. It is absolutely vital that we pass this motion and the bill and that it not be vetoed.

I want to talk about Joan Samuelson for a moment. She has Parkinson's, and every day that we postpone lifting this ban, which was put in place by an administration official, not by the law, it means a greater loss of Joan's ability to speak and to move.

Let me spell it out for you so that you can understand. This is not an issue that is a theoretical thing. This is personal with me and with the people that have these diseases.

Joan first testified before the House committee in April 1990. She had full use of her right arm and partial use of her left arm. Today, she has no control over her left arm and is losing use of the so-called good right arm. Her only hope, her only chance, is fetal tissue transplantation research, which shows some promise with patients with Parkinson's disease.

I saw Mo Udall, our great colleague in the House of Representatives, just reduced to almost nothing by Parkinson's disease. His family was hopeful up to the day that this bill was vetoed that there might be an opportunity that he would be eligible for a fetal tissue transplantation. Believe me, these people are prepared to participate in this research. Otherwise, they will never be helped.

The second reason given—and I respect the fact that people have strong feelings on abortion, but this is not an abortion issue, as the chairman stated. We wanted to give the President's fetal tissue bank a chance to work.

That is why I hope everybody will vote for this cloture motion; vote "aye" because a new provision in the bill allows the bank to get up and be running by May 19, 1993.

This is a year after the President established the tissue bank by Executive order. At that time, researchers may apply for tissue from spontaneous or ectopic pregnancies from the bank.

So we have given the President what he wants. The compromise was, after 14 days, in this bill, and after this year of experimentation, to see if there is enough tissue, which we do not believe there is, and no doctor believes there is. If after 14 days there is no usable tissue available, researchers would be permitted to carry out the research with fetal tissue from other sources. That is a fair compromise.

This allows time for the President's bank to work; even though we do not believe it will, it gives that chance.

Senator HATCH has so well argued that it ought to have a chance. In the months before he died, Ted Weiss, our House colleague's staff uncovered NIH internal documents that revealed that the NIH officials themselves had serious reservations about using tissue from spontaneous abortions or ectopic pregnancies for transplantation into human beings.

But we have given the opportunity for this to happen even though people are dying and people will lose their lives every day we delay. I just hope that we can get on with this research and save lives. It is time to put ideology and politics aside so that critically important research can go forward and people can have some hope.

The compromise we are taking up today allows for the President's view to prevail. But if it is not scientifically feasible—what I am interested in here—after 1 year, if researchers cannot obtain tissue from the bank, after 14 days they can go to any other source for tissue. This heeds the recommendation of over 40 national medical, disease, scientific research organizations that say "lift the ban."

I point out that the authors of this bill—and I am proud to be part of it—did not pick an arbitrary timeframe, as some suggested. In fact, we followed the recommendation of the President's own chief health policy officer. It was Assistant Secretary Mason who said:

> NIH will move swiftly to establish the tissue bank and we anticipate that it will be in full operation in a matter of months.

The bill provides more than a few months for this tissue bank to become operational. It allows for a full year. I do not think we should have any problems with the President or his supporters. I just would like to hold him to his word and that of his own blue ribbon panel. His own panel said, "Lift this ban so that we can conduct research and we can move ahead and guard against any abuse this bill does."

I close by saying I urge my colleagues to vote again for cloture and for this bill. We voted 87 to 10. We should do it again. I hope this time it is 100 to nothing and we have cloture on this bill to proceed.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. Mr. President, I inquire how much time is available.

The PRESIDING OFFICER. 7 minutes and 11 seconds.

Mr. WELLSTONE addressed the Chair.

Mr. ADAMS. The Senator from Utah, who, I assume, is in opposition to this, has not had an opportunity to use any of his time so the Senator will wait a moment.

Mr. WELLSTONE. Mr. President, if the Senator will yield, I talked to the Senator from Utah. He said it will be all right for me to proceed.

Mr. ADAMS. I yield 4 minutes to Senator WELLSTONE.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 4 minutes.

Mr. WELLSTONE. Mr. President, I believe it is more critical than ever that we pass this NIH reauthorization bill, with its very important promise for millions of Americans who can benefit from its research programs.

There is so much here for people suffering from disease. The bill supports major initiatives in women's health. For the first time, there is a requirement that women be included in research projects supported or conducted by NIH. Previous investigations into AIDS, heart disease, and other life-threatening conditions have all but ignored how those diseases may develop differently in women, and the different responses women may have to potential therapies. We know, for example, that women who are HIV positive have a much shorter life span than men with HIV. We must use our resources to find out how we can intervene for these women, and, until we find a cure, at least understand the barriers to treating them, and how to overcome those barriers. Including women in NIH clinical trials will give us important new information that we can use to save lives.

The bill also expands funding for research into diseases that strike women exclusively. It would fund research efforts on breast cancer at $575 million, an increase of $325 million over last year, to expand, intensify, and coordinate research efforts on breast cancer, and to develop a comprehensive plan for the prevention, early detection and treatment of breast cancer. It authorizes $40 million for research into osteoporosis, and $75 million for ovarian cancer research. It gives permanent statutory authority for the Office of Research on Women's Health, a vital step in assuring that women's concerns will receive attention and funding.

There is also a program to recruit women into the fields of biomedical and behavioral research.

There are new programs for prostate cancer and for comprehensive AIDS research, and a formal process for ethical review and approval of research proposals. Many of our constituents around the country have made us aware over the last year of the rise in traumatic brain injury, and I have joined Senator KENNEDY and others in cosponsoring legislation that would develop prevention and assistance programs for people with TBI. The NIH bill would fund the Interagency Program for Trauma Research, which can make an important contribution to combating this new epidemic.

And the bill reauthorizes the critical ongoing research programs of the NIH, that have contributed to making the United States the world leader in biomedical research. All of these are programs every one of us can be proud of: the National Cancer Institute; the National Heart, Lung and Blood Institute; the National Library of Medicine; the National Heart Institute; the National Institute on Aging.

But all of these programs are threatened because the bill also includes approval for research on the benefits of fetal tissue transplants. This research holds so much promise for people suffering from diabetes, Parkinson's disease, Alzheimer's disease, and other rare and otherwise incurable diseases.

We have argued and debated the merits of fetal tissue research for months now, and it is clear that this Senate understands very well that this is a health issue, a research issue, and not an abortion issue. We have made modification after modification, to address every imagined concern that has been raised.

Our effort today is an attempt to compromise with an administration that is so blinded by ideology it cannot see its way to helping seriously ill Americans who are in desperate need of help.

Since the Senate first passed this bill, with an overwhelming majority, and strong bipartisan support, the administration has tried several times to throw a roadblock in the way of progress. President Bush's proposal to establish a fetal tissue bank using only tissue from ectopic pregnancies was discredited by the very scientists he claimed supported it. A researcher from the University of Minnesota joined many other practicing scientists who let the New York Times know, last July, that their opinions had been publicly misrepresented, and that tissue from ectopic pregnancies is absolutely unreliable to sustain research. Ectopic pregnancies are discovered unpredictably, at a time of medical crisis. No regular lab can count on finding and collecting this tissue in a way that can sustain research.

However, the President has insisted on this approach, and the bill before us today recognizes his desired approach. NIH researchers have made it clear they want to explore the potential therapeutic value of fetal tissue transplants for people suffering from Parkinson's, Alzheimers, diabetes, and other crippling and life-threatening diseases. For 1 year from the date, the President established his tissue bank for tissue from ectopic pregnancies and spontaneous abortions, those researchers will be limited to using that tissue only.

After a year, if this tissue bank cannot fulfill a request for tissue within 14 days, scientists may then turn to using tissue from induced abortions.

This proposal is vitally important to the people with Parkinson's, Alz-

heimers, diabetes, and other chronic and crippling conditions, who have held out so much hope for the fetal tissue research program this Senate voted for in April, and sustained in conference. These people are not pro-choice or antichoice. They do not see this issue as anything but what it is: an opportunity for this Government to use its vast research capabilities to make a real difference in the lives of suffering human beings.

This is a serious effort, Mr. President, by Senators with a range of opinions on many other issues, to come together for the good of Americans who depend on us to open the door to hope and a healthy life.

How ironic it is, and how tragic, that this legislation that holds out so much hope, especially for women, by recognizing their special health concerns, by elevating them to the status men have always enjoyed as research subjects with particular needs, has been obstructed and misconstrued by a President who is committed to denying women reproductive choice.

Let me be clear about this. I speak for some people who have been working very hard in the House and the Senate: Joan Samuelson with Parkinson's; Ann Udall whose father Mo Udall suffered from Parkinson's, and I speak for myself as well.

Both my parents had Parkinson's disease; both of them.

I remember very well that at the very end of my father's life, when he was about 80 years old, we went out to lunch. We went out to lunch at McDonald's. My father liked McDonald's because there were lots of bright colors and lots of children to look at. A close friend of mine, who taught at Carleton College, Michel Minot, came to McDonald's at the same time. Michel, at about the age of 38, had Parkinson's disease. It was a bad day for my father.

I have mentioned this before.

I decided that we would take my father out not through the front door, where he would have to go past Michel Minot, but out the back door. The reason for that was I did not want Michel to see his future.

I just want to make it crystal clear that those of us who speak in favor of the NIH reauthorization do so because we are vitally serious about the potential of this research for Parkinson's, Alzheimer's, diabetes, and many other diseases.

I want to say as clearly as I can, with as much eloquence as I can, with as much conviction as I can, and with as much emotion as I can, I cannot think of a more important vote than this. I hope that Senators will remain true to the votes most of us have cast in the past, so that the many citizens in this country who suffer from these diseases may have a chance to benefit from cures that could come for research involving fetal tissue transplants. I very much hope that we will vote to stand behind our reauthorization of this program, and for cloture on proceeding to this bill.

Mr. President, women who are HIV positive have a much shorter lifespan than men with HIV, and we do not know why. But with the funds built into this budget we would do the research. As a matter of fact, we have not paid very much attention in our health care research priorities to the health care needs and circumstances of women in our country. But in this authorization bill, finally we focus more on breast cancer research, finally we focus more on effective early breast cancer detection programs, finally we focus more on research in ovarian cancer, finally we are taking a step toward research priorities that are responsive to women in our country.

I want every Senator who votes on this cloture motion to remember that. I want every Senator to remember that.

And then there is the other issue that we have been discussing on this floor, fetal tissue transplant research. Mr. President, the debate has already been covered so let me not go through the specifics. Let me make one simple compelling point. Those men and women with Alzheimer's and Parkinson's disease and diabetes are not prolife and they are not pro-choice. They suffer from these diseases, and they have hoped that this research could make a difference in their lives, and they look for good public policy that will make a difference in their lives. And they do not want to see their hopes dashed or this research not take place because of overzealous ideological objections.

We compromised with the President of the United States on this issue. We have a different kind of tissue bank now set up. We do not think that ectopic pregnancies will really provide enough tissue to do the job, but we are willing to compromise and we are willing to give it a year to see.

Mr. President, I just say to every single Senator that this is probably one of the most important votes you are going to cast. Before you vote—and I hope you will vote for cloture—please remember women in this country. Please remember it is time to move forward. Please remember the people who suffer from these diseases. Please do not vote on the basis of some kind of ideological objection. Please be willing to compromise.

Mr. President, just to conclude my remarks, and one more time dedicating my remarks to Joan Samuelson, dedicating my remarks to Ann Udall, daughter of Mo Udall, and dedicating my remarks to my mother and father, who both had Parkinson's disease. I say to my colleagues I feel so strongly about this issue. Please vote for cloture. Please let us move forward with some research that will give people who suffer from these diseases some hope. Please do not pour cold water on their hopes and their dreams. Please cast the vote for cloture.

I yield the remainder of my time.

Mr. HATCH. If the Senator needs additional time, I will be happy to yield additional time.

Mr. WELLSTONE. I thank the Senator from Utah. I am fine.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this bill has gone all the way through the Senate before. It passed overwhelmingly, went to the House. Everybody knew it was going to be vetoed. It passed in the House. The President then vetoed it, which he had to do. The veto was sustained by the House exactly the way I said it would be.

One of the strongest proponents of fetal tissue is standing right before you. His name is ORRIN HATCH, the Senator from Utah. But I predicted exactly what would happen, and that is what happened. I suggested that we have fetal tissue banks set up so we could use ectopic pregnancies and miscarriage tissue. The authorities tell me that there can be as much as 2,000 nondiseased tissue samples. That would be more than enough to take care of all of the fetal tissue research and transplantation that we could do each year without getting into this awful issue of abortion. I predicted all of that. And I happen to want the NIH bill to pass to boot.

But the people did not listen, and they did not listen on the basis that, well, fetal tissue research is so important that we have to fight this through. It is important. But we all know that the exercise here is exactly the same as the last. Yes, it would probably pass the Senate; it would certainly pass with more than 50 votes. Yes, it might go to the House. There it would probably pass. And, yes, I have to tell you the President would veto it again, and it would probably be a pocket veto. So why in the world are we doing this in these last few hours of the 102d Congress when I predicted that all of this was going to happen before? Why are we doing this, Mr. President? There has to be some logical reason. It cannot be because nobody on the proponents' side think they are going to get a bill. It cannot be as long as they keep the right to use aborted tissue in there. And that is what they have elected to do.

If they want a bill, they can get a bill. It will do much good for NIH and for this country as a whole, and I would like them to have that. If they want fetal tissue research, they can have it, and it would be authorized by none else than the full Congress of the United States, and it could give an imprimatur to fetal tissue research that it has never had before.

But, no, there is a desire to make abortion the issue by some on both sides. I am not going to name names, but there are some on both sides who want abortion to be the issue. I do not want it to be the issue. I would like to avoid those ethical and moral dilemmas. I would like to have fetal research go forward. I would like to have this body and the other body give its imprimatur and the full weight of the U.S. Congress in favor of fetal tissue research. I like that. I have been fighting for that.

But, no, the only reason for this exercise is so they can cause the President to veto this again and, I guess, get some political advantage out of that when they all know that he has to veto it, because he has taken that position. He does not believe that you need to use abortion tissue, that is, induced abortion tissue, for fetal tissue research, and science backs him up on that.

So what are we doing. We are here in another political exercise. Here we go again. We have the same situation here that we had this morning on the education bill. A debate and a bill with one fundamental purpose: A cynical attempt to provoke a veto by the President. And why? Because I guess they think on the other side that if you can provoke a veto and the President has to veto it, then it shows that he is insensitive to fetal tissue research.

That is pure and simple bunk. It is baloney. Because he has already, by Executive order, set up five fetal tissue banks. There are five of them being set up throughout America. And I have been informed by scientists that those five will produce at least half of all the fetal tissue necessary to do the scientific research in fetal tissue research.

Why only five? My gosh, it would be easy to set up 50 of them. That is the same thought by those who want to use induced aborted tissue, who I guess do not want the banks to work so they can have this issue. And they blame the President, they blame somebody like me who wants this research to go forward. That is a joke of all jokes.

I am dispirited by the fact that election year posturing has reached into an area that ought to be immune from the political thicket—the National Institutes of Health. This agency, a national pride, a national treasure, sometimes called the crown jewels of the U.S. Public Health Service should not be caught in the crossfire between forces on either side of one of the most explosive social issues of our time.

I am saddened that this body must once again consider reauthorizing legislation for the National Institutes of Health. It seems like only yesterday we were debating H.R. 2507—the predecessor to S. 2899. I would not be surprised if some of my colleagues have memorized many provisions in this bill by now—then, again, I guess I would be surprised—given the numerous occasions on which we have had to revisit them. And, this needless waste of time is all because of the controversial ethical provisions that have persisted in the bills.

Let me review the many occasions we have considered NIH reauthorizing legislation during the 102d Congress. On November 12, 1991, during the Labor and Human Resources Committee hearing chaired by my colleague from Washington, I first raised the concern that the administration and many others had with fetal tissue transplantation research using tissue from induced abortion. Again, in committee, on February 4, 1992, I offered an amendment to resolve this particular problem precisely because of the veto threat. And again, on March 31 in this Chamber I rose to warn the Senate that the National Institutes of Health Reauthorization Act was on an unavoidable collision course with the President. On June 4, I discussed several objections that I believe the President would find with H.R. 2507 legislation were it to arrive on his desk in its current form. Finally, a couple of weeks ago on September 14—at a time when I had hope we could resolve the problems in this legislation—we started the predictably tragic process over again in the Labor Committee with S. 2899.

How many times must we vote on these contentious provisions in the reauthorization of the NIH?

What has our Nation gained from this deliberate and calculated confrontation? Congress, regrettably, has not passed legislation reauthorizing the National Institutes of Health since 1988. The reason we have not is because we allowed the ethical and moral issues to cloud the real issues. And I have to say both sides are responsible for that. It is absolutely tragic that today we are no closer to the goal of adopting reauthorizing legislation. As a result, the American citizens are the losers.

Unfortunately, for those of us who are genuinely concerned about advancing the agenda of women's health—and I am working very hard on a mammography bill right now; we have it written, now we have to get it through—we must now wait for yet another opportunity to advance this noble objective. Consequently, important research into the causes and prevention of breast and cervical cancer will be held hostage. There will now be further delays before we can ensure that there will be no discrimination in including women and minorities in clinical trials conducted or supported by the National Institutes of Health.

Moreover, I believe it is necessary that women and children be included in HIV vaccine therapy trials. It is my amendment that is in this bill. Women and children are clearly one of the fastest growing groups affected by HIV disease as evidenced by growing numbers of both reported AIDS cases and HIV prevalence data. This effort, too, has been stalled by an unwillingness of some in Congress to make reasonable compromises.

Applied research into terrible diseases afflicting American children are also held hostage. During the past few years, there have been unprecedented advances in the scientific investigation of inherited and acquired diseases affecting children. Application of this research to infant mortality and genetic disorders such as cystic fibrosis, sickle cell anemia, mental retardation can result in improved treatment and care for the Nation's children. This applied research could be advanced by authorizing the expansion of children research centers.

The same could be said for juvenile arthritis. I am aware that of the 14 centers currently funded by the National Institute on Arthritis and Musculoskeletal and Skin Diseases—something I helped to put through here—three support research into this disease. But, establishing centers with a specific focus on juvenile arthritis would accelerate our efforts in this field.

Furthermore, vital research affecting men has been held hostage unnecessarily. I am speaking about prostate cancer. Prostate cancer is now the second most common cancer nationally and the leading cancer killer among men. In Utah, it is the most common cancer among men. Research into this terrible cancer needs to go forward.

Families, too, were affected by the politicization of the reauthorization bill. Each year about 10 to 15 percent of pregnancies result in miscarriages. These are tragic situations for parents who hope and plan for the rearing of their developing child. I had hoped to encourage Federal leadership into this area. I trust that the administration will utilize the research opportunities created by the President's Executive order to establish fetal tissue banks from exclusively spontaneous abortions and ectopic pregnancies to further investigate the causes infertility leading to birth loss.

Let me reiterate once again that the most serious problems that plagued previous legislation still persist in S. 2899 as well.

The change in the provision regarding the ethics advisory boards is only cosmetic. The Department of Justice has stated that the provision in this bill clearly violates the appointments clause and is recommending a senior advisors veto on this provision alone.

So just do not blame the President on fetal tissue research, because he made a commitment to not allow induced abortion tissue. Do not blame him for that.

There is another very good reason, and that is because of the unconstitutionality of some very important provisions in this bill.

The new measures regarding fetal tissue banks only give a superficial appearance of change. This legislation would nullify the moratorium regardless of the success of the fetal tissue banks established by the President's Executive order.

Since the President's Executive order on fetal tissue banks, abortion advocates—those who want abortion—some researchers, and some Members of Congress have wasted needless energy trying to say that the banks will not work before they ever begin. Mr. President, the banks should be given a fair chance to work. The NIH has just this week funded the first five tissue banks.

We are told by abortion advocates that the legislation we are considering today is a compromise. It is nothing of the sort. It did not involve even one discussion with the other side—not even one discussion.

It is an understatement, in light of the serious health concerns faced by our citizens, to note that this is an instance were political maneuvering by some in an election year has clearly taken precedence over the health needs of our Nation.

Within minutes on the day that the House failed to override the President's veto on the first NIH bill, the Congressman from California, Congressman WAXMAN, rushed to his press conference to announce his new NIH bill. HENRY WAXMAN is a friend of mine. But within minutes, he went to a press conference to announce his new bill. Let me read one of his highly revealing quotes: "Well, Mr. President, this bill is not going to go away. We plan to mark up the bill on a very fast schedule. We're going to get it to your desk before the Republican National Convention." He goes on to say: "We hope that we don't have to override the veto. But if we must, that is exactly what we'll do."

I have to say that Congressman WAXMAN called me and said he did not mean that to be used politically and he apologized and he pulled off before the convention. And I respect him for it. I care a great deal for him, and I care a great deal for his leadership and his ability in the health area.

But nevertheless how can you call it anything but political when we have already been through this whole routine. I have described everything that was going to happen, and it did. I will describe it again, and it will, except it will never get that far unless we keep people in the Senate well into next week and maybe the week after that.

Mr. Clinton, too, hurriedly jumped into the political fray, harshly criticized President's veto action even before he collected all the facts. Which I have been informed by even some of his friends that he often does.

His statement indicated that he thought that fetal tissue transplantation was used for breast cancer and osteoporosis.

That is indeed a tragedy that our election process would elevate the NIH bill to the politics of an election year. Anyone who thinks this bill is not politically motivated is not operating on all cylinders, or to put it another way, their elevator does not go to the top floor. This bill is not about abortion, freedom of research, or women's health; it is about high stakes presidential politics.

A sincere compromise? I should say not. This is a bill hastily thrown together to meet a 6-week political deadline. And, its flaws as we have seen are most evident. When, between Mr. WAXMAN's press conference and the introduction of the new bill, was there time allotted for cool reflection to correct the flaws of H.R. 2507? What hearings have been held? What meetings and negotiations have taken place?

I wonder when the day will come when we can finally lay aside the political and ethical encumbrances that have plagued this NIH reauthorizing legislation and get down to the work in serving the American people.

In my view, we should strip away the controversial and divisive ethical provisions relating ethics advisory boards and human fetal tissue transplantation and authorize the research programs benefiting women and men, children and families at the NIH. There is no reason to hold captive these individuals to the political gamesmanship over abortion.

Let this body be under no illusion: we face a choice today of what comes first: writing a bill to advance the medical research for our Nation, or political maneuvering that prevents the biomedical research needs of our country from being addressed in an appropriate fashion. As always, I continue to hope that we can move beyond ideologies and to reaffirm what the NIH stands for—the finest science in the world.

Despite my anguish, I take comfort in the fact that the NIH possesses the discretion to address most of my research concerns raised today through its existing research authorities. Similarly, Americans who suffer from tragic diseases should continue to place their hope in the NIH; it is the world's finest biomedical research institution in spite of this futile exercise. We can all be proud of this institution and its biomedical investigators for their noble research efforts.

Mr. President, I can only offer this on behalf of myself. I do not know if I can pull those off, if cloture is invoked. I do not know if I can pull those off who would have postcloture remarks and amendments. I do not know if I can. And I have worked very hard to come up with some simple solution that might get everybody off this kick and allow the President to sign the bill.

There are those who would like me to demand no less than 5 years to allow the fetal tissue banks to work. There are those on the other side of this issue who disagree with me, who would go a year.

Some would go to 18 months. I believe, if the distinguished Senator from Massachusetts had his way he would probably go 18 months to allow the fetal tissue banks a chance to work. If they work you avoid the issue of abortion, the issue of ethics, the issue of a constant political battle. Then everybody can be happy and nobody has to get into this kind of a controversy again.

I have taken as much effort as I can to come up with a way to resolve this. I will say this. If the other side would agree to no less than 2 years from January 1, 1993 with appropriate language to give the fetal tissue research a real chance to work through these fetal tissue research banks already set up by NIH and an additional number that would have to be set up to make it work, that I would do everything in my power to add that as an amendment. That would get rid of this problem and get fetal tissue research the imprimatur it really needs—that is the support of both Houses of Congress—to make this thing work. But I guarantee I will not drop 1 minute below 2 years from January 1, 1993, on this issue. If that is so, we will just have to go to war and go to battle and let things fall the way they have to. And again who loses? The American people.

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

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

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

The PRESIDING OFFICER. The Senator from Massachusetts controls 2 minutes and 50 seconds.

Mr. KENNEDY. How much on the other side?

The PRESIDING OFFICER. Senator HATCH has 9 minutes, 50 seconds.

Mr. KENNEDY. Mr. President, I yield myself all of 2 minutes.

Mr. President, just so the Senate understands where we are, there were basically three items in the veto message by the President, One on the fact that he believes the fetal tissue bank would provide sufficient material so we would not need to move ahead with this program. The head of NIH, Bernadine Healy, estimated it would be 1 year to develop that bank. Assistant Secretary Mason said it would be 1 year to develop that bank. They have issued the executive orders as of last May to develop that bank.

We are prepared to take those that know the most, allegedly, about the time to prepare that bank—1 year the administration has basically said—and we were prepared to say all right, we will try it your way. We will try it your way. You heard Senator HATCH this afternoon say he believes there

will be sufficient material that will be developed.

However the principal source for that statement, which was referred to by Senator HATCH during the debate last spring, Dr. Berne, her work has been analyzed and reviewed and submitted in Science magazine of August of this year. It indicates there would not be sufficient material.

The opposition says there will be. We say all right, we will take you at your word. We will give you an opportunity to set up that system and if it does not work we want the research to go ahead in these areas of disease that can make a life-and-death difference to individuals. We have compromised on that.

Second, the administration has complained about our increasing various authorization levels. It is true we did increase over the President's budget from $2 billion for the National Cancer Research Institute to $2.2 billion. We did increase research for the National Heart Institute from $1.2 billion to $1.4 billion. We did increase research on the National Institute on Aging from $407 million to $500 million, and we did provide funding for the infertility research centers that were talked about here to $20 million.

But we did something else. The President said we believe those increases in authorization are too much. In this budget of $1.5 trillion you cannot find $200 million for cancer, cannot find another $200 million for heart, you cannot find another $75 million for research on the—too much, they say.

We say all right, if you do not want to do that we retreat on that. We withdraw those. We say, "such sums as necessary," Mr. President. "Such sums as necessary." But we will not retreat on the women's health initiatives.

The President's budget has zero for breast cancer, we have $325 million—I yield myself the remaining 56 seconds—zero for ovarian, we put $75 million; zero for osteoporosis, we put $40 million. We are not retreating on that. We have taken 13 authorizations out but we will not retreat on those.

I believe it is a pretty fair compromise. The final one is on the power of the Secretary on the recommendations of various ethical issues. We say the Secretary's authority will move ahead and be persuasive and controlling unless it is going to be capricious and arbitrary; capricious and arbitrary. It has been in the past with regards to this kind of research. And we do not believe there should be the power in any Secretary, ratified and approved by the Senate or not, that is going to put a political spin on medical and scientific research but can make a difference to the lives of children, elderly people, and women in this society.

We have compromised and I hope we will get the votes for cloture so we can pass this legislation.

The PRESIDING OFFICER. The time of the Senator has expired. Z

The Senator from Utah has 9½ minutes remaining.

Mr. HATCH. Mr. President, I suspect the Senator from Massachusetts really has not heard what I had to say. All that aside, I am willing to take this bill, the extra costs, the language that they have, including the unconstitutional language; I am willing to do everything in my power to see that this administration takes it. And I believe that some of us might be able to get that done.

I am willing to ask those right-to-life Senators, who feel very deeply about that particular issue, to allow this to go. I feel very deeply about the right to life. I suspect that all of us are prochoice when it comes to the life of the mother. There might be a few fringe people who would not be, but I cannot imagine anybody with brains not willing to have abortion for the life of the mother. I think all of us would be prochoice with regard to rape and incest.

The polls show a majority in this country would probably be prochoice with regard to fetal deformity. It is when you get beyond that that you get into all kinds of troubles and that is why we are in this ethical and moral dilemma.

As deeply as I feel about the right of that unborn child to live, I am willing right here and now to work out language to allow these fetal tissue banks to work for 2 years starting January 1. If they do, this debate is over, and we will never have to debate the moral and ethical issues again. We will all be pleased because we will have given imprimatur for fetal tissue research from both Houses of Congress from this day on. What a thing that would be, just for 2 years. If it does not work, we will have come a long way making it work and then they can use aborted tissue.

That is a tough thing for me to say today, but I will do that in the interest of compromise, in the interest of resolving this problem. Do not tell me that top authorities in this country say that these fetal tissue banks will not work. Bernadine Healy and her scientists out at NIH, which the distinguished Senator from Massachusetts has been saying is such a wonderful organization, and I am, too, she and her scientists out there have set up the tissue banks and the grant process over a 2-year period beginning shortly.

These are the experts at NIH and this is what they are doing: Dr. Jim Mason, who is no small person, who has had tremendous experience in health and public health at that, having headed CDC before becoming the No. 1 man in health at HHS, said there will be sufficient tissue from the bank to meet current research needs:

From the approximately 750,000 miscarriages annually in the U.S., we estimate that only 1,500 will produce usable tissue. Our estimate of the amount of usable tissue from ectopic pregnancies is 500. The goal of the tissue bank is to collect enough tissue from these two sources for experimental implants aimed at altering the course of Parkinson's, diabetes and other disorders.

The figures by the National Institutes of Health back that up. The HHS legislative alert on the fetal tissue bank backs that up. A letter from C. Everett Koop, the former Surgeon General of the United States backs that up. A letter from Dr. Bernadine Healy, one of the leading women doctors in this country, now Director of NIH, backs that up. A letter from Timothy Jackson, Ph.D., from Stanford University backs that up; a letter from Christopher DeGiorgio, M.D., Thomas Murphy Goodwin, M.D., D. Alan Shawmon, M.D., UCLA School of Medicine backs that up; and others, which I ask unanimous consent to print in the RECORD.

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

WASHINGTON, DC, *May 28, 1992.*

The PRESIDENT,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: I strongly endorse your recent Executive Order creating a Fetal Tissue Bank using tissue from ectopic pregnancies and spontaneous abortions. As the former Surgeon General, I share your commitment to find cures and treatments for such debilitating diseases as Parkinsons, diabetes and certain inherited disorders. When the ban on fetal tissue research was first instituted, I frequently told scientific colleagues that if I were engaged in that type of research, I could still pursue it because I would seek and find tissue from ectopic pregnancies and spontaneous abortions. That is essentially what the fetal tissue bank which you propose would do. Using tissue from induced abortions would be easier and more convenient, but a bank of tissue from spontaneous abortions and ectopic pregnancies will still permit orderly research.

The argument that spontaneous abortions may be genetically imperfect is not one which holds up with ectopic pregnancies. Nor would they be infected.

Until new indications for fetal transplant are found, or the number of fetal specimens needed is vastly increased, the tissue bank will prevent the stagnation of research for the serious scientist in this very embryonic field.

Sincerely yours,
C. EVERETT KOOP, M.D., Sc.D.

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NATIONAL INSTITUTES OF HEALTH,
*Bethesda, MD.*

Hon. ORRIN HATCH,
*U.S. Senate, Washington, DC.*

DEAR SENATOR HATCH: I know the Senate will be considering the Conference Report on H.R. 2507. I would concur with the recommendation to the President to veto the Bill. I have several concerns. For example, the highly intrusive language of the bill micromanages some of NIH's important research programs. In the area on women's health, while I fully support the spirit and the goals listed in this section, the NIH is currently moving forward with aggressive programs on the health of women and minorities and their career development and on the inclusion of women and minorities in clinical trials. The Bill also imposes activi-

ties and a number of advisory committees, including an Ethics Board, on NIH that are costly, unnecessary and duplicative, and in some cases intrude on the existing authorities of the Secretary.

With regard to the fetal tissue transplantation moratorium, my own personal views are well known. However, in terms of the fetal tissue bank, I can state unequivocally as a physician and scientist that this approach is feasible and should be given a chance to prove its efficacy in terms of furthering one of the many needed research options for treatment of diseases such as diabetes, Parkinsons and certain inherited disorders.

I believe that such a bank with an established and NIH funded tissue procurement effort will provide a means to continue the transplantation research effort. In particular, harvesting tissue from ectopic pregnancies, which are life threatening to women, should be vigorously pursued. Such tissue is apt to be uninfected and more likely to be genetically normal. Furthermore, with existing echocardiographic diagnostic technology, ectopic pregnancies are being detected resulting in the opportunity for surgical removal of viable and intact fetal tissue in some of these cases. Indeed, in the case of the widely reported success story of fetal tissue transplantation into a young child from Texas for a devastating disease called Hurlers syndrome, the source of the successful transplant was an ectopic pregnancy.

NIH is committed to establishing the bank and determining its efficacy within one year of its initiation. We will report to the Secretary on the progress with the bank. Using this tissue we hope also to accelerate research to establish human fetal cell lines in laboratory cultures where they can be properly characterized, assured of being pathogen free, and in some cases genetically engineered to be of more therapeutic value.

NIH exists to find the best ways to enhance the health and quality of life of the American people. A simple extension of appropriation authorization would be the most effective way to continue our work.

Sincerely yours,

BERNADINE HEALY, M.D.,
*Director.*

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STANFORD UNIVERSITY,
*Stanford, CA, May 4, 1992.*

President GEORGE BUSH,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: I am writing to express my support for your issuance of an executive order requiring the Secretary of Health and Human Services to establish a nonprofit registry, a tissue bank and cell lines, using tissue obtained from spontaneous abortions and ectopic pregnancies. Such a registry would represent a collaborative network between transplantation researchers and hospitals and might obviate the need to use tissue from elective abortions.

Elective abortions are, at best, morally problematic, and it is reasonable to suppose that the medical use of tissue from such abortions will tend to increase their numbers. No one ought to encourage or profit from the voluntary taking of a human life, however, and a wise social policy will take the necessary steps to protect the sanctity of human life at all of its stages.

I write not as a scientist but as an ethicist who is sensitive to both the medical needs of patients who might benefit from human fetal tissue transplantation research and the larger society who believe that this research may further legitimize the practice of elective abortion in the United States. This debate involves complex questions that are not easily resolved. I myself have been involved in early phases of this debate here at Stanford University.

On April 20, 1989 the Stanford University Medical Center Committee on Ethics (on which I served along with nearly 50 other experts representing a multidisciplinary group) published its report on "The Ethical Use of Human Fetal Tissue in Medicine." Although the Majority of our committee approved the use of tissue from elective abortions—an opinion from which I dissented—we did recognize that tissue from this source differs from that taken from adult cadavers. For fetal tissue from elective abortion becomes available as the result of a mother's decision, implemented by a physician's actions, to end her pregnancy. This element of volition introduces a new ethical problem. Hence we agreed that "if tissue taken from spontaneous abortions could reasonably satisfy medical demands in both quantity and quality, it would be preferable to avoid the ethical problems of using the tissue from induced abortion" (New England Journal of Medicine, Vol. 320, No. 16, 1989).

Medically screened fetal tissue from spontaneous abortions, as well as from ectopic pregnancies, would be analogous to organ and tissue donations from adult cadavers. Therefore, such fetal tissue could serve as a noncontroversial source of possible highly beneficial transplants—assuming, again, that the tissue meets relevant criteria of quality and quantity. This general approach in conjunction with vital feasibility studies on the recovery, reservation, and transportation of tissue from spontaneous abortion and ectopic pregnancies was proposed by Orrin Hatch in the Senate recently. It is unfortunate that the Senate did not choose to pass his amendment.

Mr. President, an executive order to establish a network between hospitals and researchers to recover human fetal tissue from noncontroversial sources would, I believe, be consistent with the normative preference of the 1989 Stanford University Medical Center on Ethics. It should also meet the humanitarian concerns of biomedical researchers. (Virtually no one, regardless of whether he or she is "pro-life" or "pro-choice," wants people to suffer from tragic diseases.) In short, such an order should help satisfy all parties who hope for a constructive resolution to this very divisive situation. It is on this basis, and as an individual rather than as a representative of Sanford, that I make my appeal.

Sincerely,

TIMOTHY P. JACKSON, Ph.D.,
*Assistant Professor.*

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MAY 5, 1992.

*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: We are writing as a multidisciplinary group of physician-scientists who express our support of an executive order requiring the Secretary of Health and Human Services to develop programs to procure, maintain and transplant fetal tissue from spontaneous rather than elective abortions.

Your executive order would allow fetal tissue transplantation research to proceed without engaging in the abortion debate. There is consensus that the use of tissue from spontaneous abortions is ethically acceptable to virtually all. According to the landmark paper by the Stanford Bioethics Committee in the New England Journal of Medicine, "if tissue from spontaneous abortions can satisfy the medical demands for both quantity and quality of tissue, it would be preferable to avoid the ethical problems of using induced abortions."

Substantial evidence exists that spontaneous abortions are an acceptable source of fetal tissue for transplantation. Although tissue from many spontaneous abortions is unsuitable for transplantation due to genetic abnormalities or infection, Byrne indicates that at least 5-7 percent of spontaneous abortions would yield tissue acceptable for transplantation. This compares favorably with the yield from elective abortions, which is 6-9%. Because the tissue will be cryopreserved and banked, safeguards can be established to screen for infection, which is necessary regardless of the source of the tissue (elective or spontaneous).

Mr. President, only a handful (less than 100) of transplants have been performed, and the long term efficacy and safety of fetal tissue transplantation have yet to be established. Is it not wise to use tissue from a source which is ethically acceptable to virtually all. A careful and thoughtful research based program using tissue from spontaneous abortions or ectopic pregnancy would be sufficient to establish efficacy and safety without alienating millions of Americans.

Sincerely,

CHRISTOPHER M. DEGIORGIO M.D.,
*Assistant Professor of Neurology and Neurosurgery, USC School of Medicine.*
THOMAS MURPHY GOODWIN M.D.,
*Assistant Professor of Obstetrics and Gynecology, USC School of Medicine.*
D. ALAN SHAWMON M.D.
*Associate Professor of Pediatric Neurology, UCLA School of Medicine.*

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THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
*Chapel Hill, NC, May 13, 1992.*

President GEORGE BUSH,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: We are writing in regard to the National Institutes of Health Reauthorization Act of 1992. It is our understanding that you are likely to veto this legislation. We also are aware that the reason for your veto is because of the inclusion of the provision to use human fetal tissue from induced abortions in transplantation research and therapy, a matter which is highly controversial.

It is our opinion that the creation of a human fetal tissue registry, fetal tissue bank and fetal cell lines using tissue obtained from spontaneous abortions and ectopic pregnancies, which was defeated, had great merit. There is evidence that a proportion (5-7%) of spontaneous miscarriages will provide tissue appropriate for use in tissue transplantation research. There is a need to confirm this data and to determine if sufficient tissue can be collected from spontaneous pregnancy losses to recover the needed cells. a collaborative network of transplantation researchers and hospitals working under a properly funded research initiative could accomplish this.

One major advantage of such a project is that it will be free from the controversy that currently surrounds the use of tissue from induced abortions, a matter which seriously offends the ethical sensitivities of many people in our society.

We urge you to consider issuing an executive order requiring the Secretary of Health

and Human Services to establish a registry and tissue bank to provide cell lines from spontaneous abortions and ectopic pregnancies. This will be an important positive step that will facilitate much needed research and therapy for conditions that may benefit from transplantation of fetal cells.

The views expressed in this letter are our personal opinion and do not constitute an official position taken by this Medical School or this University.

Respectfully,

R.C. CEFALO.
WATSON A. BOWAS, Jr.

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THE UNIVERSITY OF TENNESSEE
MEDICAL CENTER AT KNOXVILLE,
*May 13, 1992.*

The PRESIDENT,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: We are writing as physicians who provide health care in an academic setting at our institution in Knoxville. This does not reflect the opinions necessarily of the University of Tennessee. We ask by your executive order that you direct the Secretary of Health and Human Services to develop and maintain tissue for fetal transplantation from spontaneous abortion and ectopic pregnancies rather than elective abortion.

We think that substantial scientific evidence exists that tissue obtained from spontaneous miscarriages would satisfy the needs of those studying fetal tissue transplantation. After screening for problems such as genetic abnormalities and viability, there is evidence to indicate that five to seven percent of such tissues have been found suitable. It is true that tissues from some spontaneous abortions are unsuitable for transplantation because of chromosomal disorders or infections. However, these problems should not detract from the fact that a reasonably high proportion of spontaneous abortion fetuses have normal undiseased tissue suitable for transplantation. There is therefore an untapped source of normal viable tissue from spontaneous abortions and ectopics. Only by attempts to culture organs and tissues from noncontroversial sources should this issue be resolved.

Although a relatively small number of transplants with fetal tissue have been tried to date, we can see the need for further research in this area. The long term efficacy and safety of this fetal transplantation has not been established, however. We therefore urge you to direct our government's efforts toward promoting fetal transplantation research in an ethically acceptable manner, avoiding the serious ethical problems of using elective abortion tissue.

Sincerely,

MICHAEL R. CAUDLE, M.D.,
*Professor and Chairman, Department of Obstetrics and Gynecology.*
WILLIAM M. HOLLS, M.D.,
*Assistant Professor, Perinatologist, Department of Obstetrics and Gynecology.*

(These are our personal opinions and not necessarily reflect those of the University of Tennessee.)

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GEORGETOWN UNIVERSITY MEDICAL CENTER,
*Washington, DC, May 21, 1992.*

The PRESIDENT,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: We were pleased to learn of your recent executive order directing the Department of Health and Human Services to establish a fetal tissue bank of spontaneously aborted tissue for research purposes. This is an area which we have been exploring and advocating for the past several years and we fully support the use of such fetal tissue for research. Somehow, in the heat of debate and controversy over abortion, this valuable source of human tissue has been overlooked. Thus, we support and applaud your decision, and the wisdom and the courage with which it was made.

Various studies, including our own, have shown that there is an untapped source of normal, viable fetal tissue derived from spontaneous abortions and ectopic pregnancies. These abortions most frequently occur in a hospital setting. Although it is true that tissues from some spontaneous abortions may be unsuitable for research because of genetic defects, viral or bacterial infection, or other problems, a reasonably high proportion of spontaneously aborted fetuses have normal, non diseased tissues, which are suitable for research.

Reliable data clearly indicate that 7–10% of all spontaneous abortions provide suitable sources of viable tissues. This translates into several thousands viable specimens for research needs each year. This volume may meet the current requirements for fetal tissue in research. Moreover, this percentage of fetal tissue compares favorably with the percentage available from the controversial source of induced abortions. What has been consistently overlooked in the fetal research debate is the fact that current techniques for induced abortions result in extensive damage to the fetal tissue, with the result that only 6–9% are suitable for research needs. Moreover, future development of birth control technologies are likely to further limit the amount of suitable fetal tissues.

Thus, the use of tissues derived from spontaneous abortions and ectopic pregnancies is a reasonable way to obviate the moral problems involving the use of tissues from elective abortions. It allows biomedical research to proceed, without offending the ethical sensitivities of society at large. Although a similar approach has been promoted by Senator ORRIN HATCH, it is indeed unfortunate that the collective wisdom underyling this legislation was not recognized. Your Executive Order, like Senator HATCH's proposed legislation, are founded on sound scientific grounds. We thank you, Mr. President, for your innovative leadership.

Yours sincerely,

MARIA MICHEJDA, M.D.,
*Senior Staff Associate.*
JOSEPH A. BELLANTI, M.D.,
*Director.*

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[From the Washington Post, June 16, 1992]

ADVANCING RESEARCH, AVOIDING ETHICAL PROBLEMS

Although a May 31 Post editorial claimed that tissue from elective or induced abortions is necessary for fetal issue transplant research, Ignacio Madrazo and his group of researchers in Mexico City in 1990 reported obtaining and using tissue from spontaneous abortions in their pioneering Parkinson's research.

The Post editorial also said that tissue from tubal or ectopic pregnancies is generally infected or has other problems and that "that's why it aborts." Actually, a tubal or ectopic pregnancy is one in which the fetus grows outside the womb, cannot live long and must be removed in an operation to save the life of the mother. National Institutes of Health Director Bernadine Healy has written that "such tissue is apt to be uninfected and more likely to be genetically normal."

Experts at NIH and in other parts of the U.S. Public Health Service have worked out a plan for a series of centers connected to major birthing centers in big cities to obtain, screen, preserve and distribute to researchers this tissue—about which there are no ethical questions and which will in no way encourage or justify elective abortions. This is being carried out under a directive from President Bush for a fetal tissue bank. As of June 12 we are beginning to advertise for proposals to operate these centers under contract.

While the bank should permit us to move ahead on research, we should be wary of claims that Parkinson's, Alzheimer's, diabetes and several inherited diseases are about to be cured by this work. I wish that were true. But even in terms of Parkinson's, where the work seems most advanced, what the preeminent Swedish researcher Olle Lindvall wrote last year is still true: "Although animal experimental data are very promising and clinical trials have given encouraging results * * * there exists at present no treatment for Parkinson's disease based on intracerebral transplantation."

There is even less progress with fetal tissue in diabetes. Nothing has been done in Alzheimer's disease in humans. (The disease remains such a mystery we would have to ask ourselves which tissue would we transplant and to where.)

We await the results of the attempt to arrest Hurler's syndrome in a child.

The federal government supports many varied studies of these diseases. With the fetal tissue bank eliminating an ethical question, it also will be supporting this further avenue of research, fetal tissue transplantation.

JAMES MASON,
*U.S. Public Health Service,*
WASHINGTON.

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[From the Washington Post, May 30, 1992]

IN SUPPORT OF THE FETAL TISSUE BANK

As biomedical researchers who have closely followed the controversy about the Bush administration's ban on funding for transplanting tissues taken from induced abortions, we've been struck by the one-sided manner in which the press has reported on the issue. With few exceptions, the arguments of those who support the administration's policy have been given short shrift or have been distorted [op-ed, May 22].

About 750,000 spontaneous miscarriages occur annually in the United States, of which about 100,000 occur in hospitals, according to the Public Health Service. In addition, about 100,000 fetuses are removed surgically each year because of life-endangering ectopic pregnancies. The bulk of these tissues is unsuitable or not practically retrievable for transplant purposes, but that also is true for induced abortions—less than 10 percent of those produce usable tissue. The point is that those miscarriages and ectopic pregnancies that do result in viable, healthy and accessible tissue can more than meet research needs.

Fewer then 100 fetal tissue transplants have been performed in the United States. The U.S. Public Health Service estimates that the tissue bank could gather at least 2,000 usable fetal cadavers annually.

The feasibility of the tissue bank has been defended by some prominent advocates of fetal tissue research. Among them are two scientists on the 1988 NIH human fetal tissue transplantation research advisory panel. The

majority of that panel recommended lifting the moratorium on abortion-dependent research.

In a May 13 letter to President Bush, Prof. Robert C. Cefalo of the University of North Carolina, who voted with the majority, said that a federally operated bank for nonabortion fetal tissue had "great merit," adding, "There is evidence that a proportion (5 percent to 7 percent) of spontaneous miscarriages will provide tissue appropriate for use in tissue transplantation research." The letter was co-signed by a renowned pioneer in fetal surgery, Watson Bowes.

Likewise, NIH Director Bernadine Healy—who also voted with the majority—wrote, "I can state unequivocally as a physician and scientist that this approach is feasible and should be given a chance to prove its efficacy."

Former surgeon general C. Everett Koop wrote to the president to "strongly endorse" the feasibility of the tissue bank. Dr. Joseph A. Bellanti and Dr. Marcia Michejda of Georgetown University Medical Center wrote, "various studies, including our own, have shown that there is an untapped source of normal, viable fetal tissue derived from spontaneous abortions and ectopic pregnancies * * * a reasonably high proportion of spontaneously aborted fetuses have normal, nondiseased tissues, which are suitable for research."

It is perfectly rational for the president and other Americans—scientists included—who recognize the fetus as a member of the human family, to oppose government promotion of research that would create a societal dependence on induced abortions as a tissue source. There is a respectable medical opinion in support of the feasibility of the president's alternative approach. It should be given a chance to work.

KEITH A. CRUTCHER.
ROBERT WHITE.

(The writers are, respectively, a professor of neurosurgery at the University of Cincinnati Medical Center and a professor of neurosurgery at Case Western University Medical Center in Cleveland.)

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[From Nature, Aug. 13, 1992]

FETAL TISSUE BANKS

SIR: Your News story "Researchers reject tissue banks" (Nature 357, 267; 1992) quotes Yale researchers who extrapolated data I supplied to Senator Orrin Hatch and that he and Senator Edward Kennedy used in a Senate debate on fetal tissues research on 31 March 1992. Unfortunately, the researchers erred in their computation.

The data Congress received come from a study of miscarriages conducted at three Manhattan hospitals between 1977 and 1981: I examined more than 3,500 normal, well-preserved specimens up to 28 weeks gestational age, and concluded that about 7 per cent of them would have been potentially suitable for transplant research.

Readers should be aware that the Yale research refers only Parkinson's disease, in which interest focuses mainly on fetal brains of a developmental age of 7–12 weeks—a small fraction of the potentially useful fetal material. Journalists who omit this detail mislead the reader, but the researchers themselves compound the difficulty by understating by half even the amount of material available for Parkinson's related transplant research. The Yale calculation, which you report, that "usable abortions occur, on the average, only 1.4 times a year at each hospital" is an error; in fact, about twice that number would be available for the limited purpose of Parkinson's research.

Our study remains the largest and most systematic inquiry so far into the pathology of miscarriages. The results indicate that enough tissue could be obtained to make the proposed tissue banks worthwhile (J. Byrne et al. Teratology 32, 297–315; 1985). Just how much, and under what conditions, would be determined by the new tissue bank programme.

Not everyone regards the tissue bank issue from a political perspective and, if it were taken out of politics, many researchers would support such a programme. Research using fetal tissue holds enormous promise, not only for transplantation, but also in cancer research, in developmental biology and in AIDS research.

Moreover, we are still far from understanding the causes of miscarriages, despite their common occurrence: there were an estimated 750,000 in the United States last year. Ectopic pregnancies are on the rise, yet their causes are still obscure. Much good will come from the wider availability of fetal tissue for research. The opportunity to use the tissue bank networks for new studies of fetal loss should not be lost.

JULIANNE BYRNE,
*Boyne Research Foundation.*
WASHINGTON, DC.

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[From Science, July 17, 1992]

MISCARRIAGE STUDY

Joseph Palca's article "Banking for transplantation research" (News & Comment, 29 May, p. 1274) conveys a misleading impression regarding data on miscarriages for fetal tissue transplant research that I supplied to Congress. Palca states that I "made no attempt to determine whether vital or bacterial infection might make tissue that [I] classified as acceptable unsuitable for transplantation."

The study referred to [J. Byrne et al., Teratology 32, 297 (1985)] is the largest and most comprehensive to date on the pathology of miscarriages. From January 1977 to August 1981 I was the leader of a team that evaluated more than 3500 miscarriage specimens for evidence of gross disorganization and dysmorphology. The overall study goals concerned the genetic and environmental causes of miscarriage. Detecting infection was not an objective. I suspected then (and still do) that infection might be a casual factor in miscarriages, but attempts to obtain funding for a study were unsuccessful. Transplantation research was also not part of our study. We supplied different kinds of tissue to local investigators. They found this tissue suitable for their purposes which, 10 years ago, probably did not include transplantation.

The information given to Congress referred only to well-preserved specimens and did not include data on fetuses that had died some time before delivery. The data indicate that enough miscarriage tissue could be obtained for tissue banks (Byrna et al.). How much, and under what conditions, would be a probable subject to study by the new tissue bank program.

JULIANNE BYRNE,
*Executive Director, Boyne Research Foundation, Washington, DC.*

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PUBLIC HEALTH SERVICE, OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH,
*Washington, DC, July 28, 1992.*

To: The Secretary.
From: Assistant Secretary for Health.
Subject: New York Times Article on Fetal Tissue Bank—Information.

ISSUE

I would like to respond to the article by Philip Hilts in the Monday, July 27, New York Times which severely distorts and misrepresents the good faith efforts by the Administration to establish a fetal tissue bank.

DISCUSSION

The primary criticism of the article (copy attached) focuses on the estimates of the quantity of tissue from spontaneous abortions and ectopic pregnancies that the Department has estimated will be usable for transplantation and which will be the target of the fetal tissue bank's collection efforts.

First, I would like to state unequivocally that at no time was any attempt made to misrepresent or distort information about the feasibility and utility of the fetal tissue bank proposal. In fact, an extensive effort was made to collect the most recent and accurate scientific data.

The following are the allegations put forth in the article and our responses.

*Allegation 1*

The New York Times claims the Department misrepresented estimates of the quantity and quality of tissue from ectopic pregnancies and miscarriages.

*Response*

Memoranda from NIH, which were quoted extensively and out of context in the New York Times article, were neither ignored nor misrepresented by us. In fact, it was precisely this information which was the basis for our determination that only a small fraction of the total tissue from all spontaneous abortions and miscarriages will be usable for transplantation purposes. From the approximately 750,000 miscarriages annually in the U.S., we estimate that only 1,500 will produce usable tissue. Our estimate of the amount of usable tissue from ectopic pregnancies is 500. The goal of the tissue bank is to collect enough tissue from these two sources of tissue for experimental implants aimed at altering the course of Parkinson's, diabetes and other disorders.

*Allegation 2*

An anonymous NIH source quoted in the article claims that in order to retrieve all of the 1,500-2,000 fetal tissue specimens included in our estimate, it would be necessary to have a "SWAT team of highly trained professionals in every bedroom and every hospital in the United States."

*Response*

We intend to have a highly trained professional team at major medical centers where the majority of obstetrics cases are seen. This system, when fully operational, will allow us to access and collect a sufficient number of usable specimens from these sources.

*Allegation 3*

The article claims the fetal tissue bank will cost $330 million per year.

*Response*

This estimate is based on the erroneous assumption that we will go to unreasonable extremes to retrieve every single usable fetus. Future costs will be largely determined by the level of effort needed to support scientifically meritorious research and therefore, I am unable to make specific cost projections at this time. Given that NIH has not received nor evaluated such proposals, it is not possible to determine the likely number of research projects nor can we predict the

course of scientific discovery. If we find that fetal cell transplantation does dramatically improve the condition of patients, who would argue with increased efforts to provide this relief? Both NIH and I remain unconvinced that in time, a fetal tissue bank will become obsolete as new and cost-effective cell and gene therapies are developed.

*Allegation 4*

The New York Times quotes unidentified sources as saying that 60–75 percent of fetal specimens will be contaminated and claims that half of the usable tissue will be expended for testing.

*Response*

The infection rate for fetal samples has been estimated by us at 50 percent. There have been on large scale studies to determine precisely the rate of infection but the first year of the bank will certainly provide valuable data on this point as well as contribute to studies about the causes of pregnancy loss. Further, modern technologies allow testing for infection on a very small number of cells.

*Allegation 5*

The article cites a Congressional Committee estimate that the number of fetuses that could be collected from the entire nation in a year would be 24. A Yale University researcher and critic of the fetal tissue bank has estimated that if the bank starts at six hospitals, 8 usable specimens could be retrieved.

*Response*

I would like to refute these pessimistic estimated by providing a simple illustrative example. One major medical center sees more than 1,000 cases of spontaneous pregnancy loss at greater than 9 weeks gestational age and over 350 ectopic pregnancies annually. This institution alone could provide about 50 usable specimens annually. Thus, with the participation of large institutions or networks of institutions, we expect significant numbers of specimens in the early stages of the bank.

*Allegation 6*

The New York Times article cites a source who claims that there will be at least a half a dozen scientific teams who will each want to carry out 20 fetal tissue transplants and that 2,000 samples will be needed in the first year.

*Response*

These projections are clearly exaggerated as only 60 transplants have been conducted in the last 30 years in the U.S. Given that transplantation research is in the early experimental stages, we are unable to predict what the actual level of future experimentation will be. A request for applications for the fetal tissue bank has already been published and 14 letters of intent have been received. We will fund approximately six centers in the first year.

CONCLUSION

The allegations made in the New York Times article are without merit. We remain confident that the bank will supply more than sufficient fetal tissue than is required for research needs. Without encouraging or justifying elective abortions, the bank will permit us to move ahead on responsible research attempts to help people with debilitating and deadly diseases.

JAMES O. MASON, M.D., Dr. P.H.

Mr. HATCH. Mr. President, we can resolve this problem, and why be tough about it? I would fight my guts out to get this bill passed with the fetal tissue banks, given a reasonable chance of 2 years which is what NIH has set them up to do. We certainly will have fetal tissue that will be used in research from those banks in that period of time.

I will do that today, and I will go to the White House and tell them they have to do it. I will talk to my colleagues who feel otherwise about this particular offer. I cannot guarantee it, all I can say is I will do my very best. In the past, I think that has been pretty good on a lot of health legislation that has passed around here. But if they will not even take that, knowing that this is going to be filibustered if cloture is invoked, knowing that the President will veto it if they can go to a process all next week to get it there and knowing that that veto would be sustained, then who is being unreasonable in this matter?

I have to say, it is not I, and I would like to have the distinguished Senator from Massachusetts and I go arm in arm down the center to get this done as we have on so many other important health bills in the past. I would like to call on my friend HENRY WAXMAN over in the House, JOHN DINGELL and others, who are linesmen in health matters in the House, tremendous people. I would like to call on them to go arm in arm and do a bipartisan effort and do what has to be done. If we can and pull that through, it will be a wonderful victory for fetal tissue research and the country as a whole. I cannot do anything less than that. I cannot argue for anything less than that. I do not think I have a chance with just anything less than that.

Frankly, it all comes down to, really what do we want, a political issue or do what is best for peoples health and lives? Do we really want this research to go forward? Do we really want to give our best to it? Do we really want to go down in defeat with NIH in the 102d Congress?

I do not blame the President. He is right to stand by his word. He is right to do what he said he would do. He is not going to have to do that unless we are willing to be in here another 1 or 2 weeks. It is a bona fide offer. I do not know if we can pull it off, but I would do my very best to get it done, and if we could, then it would be up to the House. If they do not want to take it, then that is the way life is. I reserve the remainder of my time.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. Two minutes, 45 seconds.

Mr. HATCH. I yield a minute to my friend.

Mr. KENNEDY. I would like to ask that we have 4 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH Mr. President, I have to object to that.

Mr. KENNEDY. I will suggest the absence of a quorum.

Mr. HATCH. I will give him my time, how much time does the Senator need?

I yield all that time to Senator KENNEDY.

Mr. KENNEDY. Mr. President, so we have an understanding, effectively this legislation was passed 87 to 10 in the spring; in April, 85 to 12, bipartisan Republican and Democrat. The Senator from Utah has said a 2-year extension. The language which we had included in the legislation had a 1 year trial which was the language which Secretary Healy and Secretary Mason suggested. He has mentioned 2 years. I would be prepared to split the difference with what the Senator from Utah has suggested and what is in the bill and offer that as a joint amendment and let us pass that legislation right here this afternoon.

That will give 10 more months than the administration said would be necessary for the bank. We will split the difference. He made a proposal. I would make a recommendation to our colleagues who believe very deeply that everyday we delay action is a day that avoids careful important research.

Mr. HATCH. Mr. President, if the Senator will yield, I said what I would do. It would be a big undertaking on my part. I do not know if I could get it done, but 2 years from January 1 is the absolute best—a lot of people want more than that, but that is the best I can do.

Frankly, I know it will be a crime, I know the other side is willing to go to 18 months. It is a crime if we do not do 2 years. All I can do is offer the best I can do in good faith, do everything I possibly can to get it done and I cannot guarantee I can even at that, but I will do everything in my power and good faith to get it done. That is the best I can do. It would be a shame not to do it for 6 months.

Mr. KENNEDY. I ask for 20 seconds.

Mr. President, talk about compromise. It is a difficult compromise to say to those families of Alzheimer's and Parkinson's disease, we are going to delay it further. We took a halfway mark between what came out of the committee and what the Senator is offering. If he is not prepared to do that when we have 86 Members of this body who supported that position, I think the record will reflect who is prepared to move the process forward.

Mr. HATCH. I ask unanimous consent for 20 seconds.

The PRESIDING OFFICER. The Senator has 25 seconds remaining.

Mr. HATCH. Mr. President, the money for the grants that have already been made, and they clearly are not enough, has not even been given. This is not a calendar year situation, and it probably will not even get going until

next May. We are talking about the necessary time to give these banks the chance to work.

I am willing to do everything in my power for 2 years, with the right kind of legislative language—that is the two aspects of this offer—from January 1, 1993.

I thank the Chair.

Mr. SEYMOUR. Mr. President, I rise today to help end the needless suffering of millions of Americans from debilitating diseases such as Parkinson's, Alzheimer's, and Huntington's diseases. Striking the central nervous system, these diseases lead to severe brain damage, paralysis and eventually, death. Today, we have an opportunity to help save these lives, an opportunity to turn the tide of severe disability and give these individuals a chance to actively participate in the prime years of life. This opportunity is research.

In 1988, the administration placed a ban on Federal funding for fetal tissue transplantation research. Despite this ban, several medical institutions sought private donations to continue research in hopes of finding a cure to diseases such as Parkinson's and Alzheimer's. The results of their research have proved to be promising. At the University of Colorado, seven individuals suffering from Parkinson's participated in fetal cell implantation to reverse the damaging effects of their disease. Four of these patients experienced substantial improvement over time. Although this treatment has not proved to provide permanent relief researchers, including Dr. Moskowitz of the National Institutes of Health, believe that and expansion of this research may lead to a cure.

Mr. President, these diseases are both physically and emotionally excruciating—for the victim, for the family, and for their friends. Although the onset of Alzheimer's and Parkinson's is gradual, it is a slow and painful process, involving severe memory lapse, the inability to feed or dress oneself, the inability to walk, to move or to speak. Perhaps one of the most frightening affects of these diseases, is loneliness. Alzhemier's is so severe that the victims no longer know or recognize their families or friends. They cannot remember events, emotions, or thoughts that happened the day before, or even minutes before. They live in constant fear of the unknown.

Beyond lifting the ban on fetal tissue research and creating a tissue bank, this legislation reauthorizes all of the valuable programs under the National Institutes of Health. It is imperative that this legislation be passed before we recess this year. We can not allow these programs to go unfunded. This is perhaps one of the most important and intelligent health care investments we can make this year. We can help stop the onset of damaging diseases in our future if we invest in research today.

The time has come to stand and offer our support to allow this vital research opportunity to continue. Not only will it improve the lives of millions of Americans, but will save our health care dollars in the future. I ask my colleagues to join me in support of S. 2899.

Mr. REID. Mr. President, I rise today in support of the NIH reauthorization bill, specifically as it addresses an underrepresented group here in the U.S. Congress: women.

Two hundred years of a male-dominated legislature has left its mark on women in many areas, particularly in that of medical research. Traditionally, men have decided, and still do decide, what types of medical research get funded, and at what levels.

Men are in the majority in the Congress, men are in the majority in medical research. This means the needs of women are overlooked. I am here to speak for those women currently suffering from female-specific diseases, and for those who may have died from those diseases.

If men suffered from illnesses such as interstitial cystitis, multiple sclerosis, lupus, and osteoporosis at the same rate women do, I would wager that much more research would be done on these illnesses. Perhaps there would even be cures. I see this inequity as nothing less than medical sexism.

Last year, as a member of the Senate Appropriations Committee, I worked to secure $50 million for breast cancer screening programs, more than $200 million for research on breast, cervical, and ovarian cancer at the National Institutes of Health, and $3 million for research on interstitial cystitis—a painful, debilitating disease affecting 500,000 Americans, of whom 90 percent are women. These appropriations, and they have been increased under this year's appropriations, were a significant step toward placing women's health on par with men's. Today, we are fortunate to have the opportunity to go a step further.

This bill provides permanent authority for an Office of Research on Women's Health within the Office of the NIH Director. This office will ensure that NIH complies with the congressional mandate of inclusion of women in clinical research and will coordinate among the institutes the various research projects involving women.

For too long, women have been excluded from research projects due to arbitrary considerations. Researchers believed that because women have a more complicated hormonal system, results of studies on women would be difficult to interpret and more costly to gather. Therefore, women have been considered a special case, and men have been considered the norm.

How can we consider a majority of the population as a special case? How can we refuse to test more than half our population because we say they are not the norm? This makes no sense. It is blatant medical sexism. The bill requires clinical research equity in every institute to ensure that women and minorities are included as subjects in each project.

Millions of women have read the study suggesting an aspirin a day may prevent heart disease. Do they know the sample group was entirely male? In fact, we do not know whether an aspirin a day is harmful or beneficial to women with heart disease. It is patently unfair to assume that men and women do not differ in their response to aspirin or to ignore any difference as not technically significant. Heart disease claims the greatest number of women's lives in this country. Yet all major studies of causes and prevention has involved exclusively men.

Once again, women are left in the dark because of medical sexism.

Unfortunately, physicians have a poor understanding of the effects of aging on the development of disease in older women. One-third of women in America are post-menopausal and doctors are without the tools to treat the accompanying aging problems. This bill requires research on the aging process in women, especially on the effects of menopause and loss of ovarian hormones. Further, $40 million is authorized for research of osteoporosis, a disease affecting one-third to one-half of postmenopausal women, and resulting in 50,000 deaths annually. In addition to research on osteoporosis, the effort shall include a study of Paget's disease and related bone disorders.

Information is the greatest necessity in women's health today. This bill establishes a clearinghouse and data bank to provide information on research and prevention activities in women's health. A registry is established to provide the sample pool and data for continuing research projects.

Despite our advances in technology, the number of women diagnosed with breast cancer each year has increased from 1 in 14 women, to 1 in 8, as reported yesterday. In my home State of Nevada alone, it is estimated that 200 women this year will die from breast cancer. This is unacceptable. This bill authorizes $325 million for breast cancer research, prevention, education, and establishment of research centers; $75 million is further provided for research in gynecological cancers. We must continue to provide the assistance needed to investigate and combat these pervasive, deadly diseases.

As I have said before, women have been underrepresented in positions that affect this Nation's health policy. Health problems unique to women have received inadequate attention. I intend to change that trend. I urge your support for this important legislation, for the health of our wives, daughters, mothers, and all American women.

I would like to address another section of this bill which provides for loan

repayment for those professionals researching within the NIH. After being in Washington for almost 9 years, I made my first visit to the National Institutes of Health. These Institutes are the world's foremost biomedical research facilities. I had developed over the years a respect and appreciation for the work done by the Institutes, but my personal tour closely showed how impressive and even exciting are these Institutes.

While visiting the National Institute of Neurological Disorders and Stroke [NINDS], the Director, Dr. Murray Goldstein, acquainted me with the evolution of a great discovery. Researchers came to him for permission to follow a course of study involving the use of corticosteroids to prevent paralysis resulting from trauma to the spine, as in the case of a car accident.

Initially, results showed no reduction in paralysis when corticosteroids were administered. The steroids were administered again in larger doses. Still no improvement. But, because the experiment had worked in cats, researchers at NINDS were not ready to give up hope. They administered the substance in mass quantities and found that if given to a trauma victim within an hour of injury, degeneration of the spine could be halted. Even more exciting, this treatment costs less than $100. Less than $100 to save someone from paralysis.

I could continue for hours about the seemingly miraculous medical discoveries made at NIH. While all the Institutes work on vastly different projects, I did encounter a recurring theme in every one I visited. Because NIH does not pay salaries comparable to those offered by private sector biomedical research facilities, the various Institutes frequently have difficulty recruiting scientists. When one considers the amount of debt amassed by both medical doctors and Ph.D.'s during their training, it comes as no surprise that recently graduated scientists cannot accept lower paying jobs offered by this biomedical research center.

Currently, NIH employs a very successful approach to attracting scientists to the facility to research in an area where shortages of researchers exist—specifically the area of AIDS investigation and research.

The AIDS Loan Repayment Program permits NIH to attract researchers to work in the area of AIDS, where a desperate shortage exists, by repaying each year of service to NIH a predetermined amount of the researchers' educational loans. This bill extends this excellent program to allow NIH to attract scientists in other areas where shortages of researchers exist, such as in the area of Alzheimer's disease, cancer and heart disease.

Extension of the AIDS Loan Repayment Program to other specialties takes on an even greater significance when one considers that in 1990, 79 percent of all medical students borrowed to finance their education. The average debt in 1990 for medical students was $46,224, and 30 percent had debt over $50,000. Not surprisingly, debt levels for minority students were significantly higher than average.

As the National Institutes of Health is reauthorized this Congress, I sincerely urge my colleagues to support the finest biomedical research facility in the world, and in particular by ensuring that the Institutes remain capable of attracting research personnel. I also strongly recommend that each of my colleagues find time in their busy schedules to visit this impressive institution.

Mr. GORTON. Mr. President, I would like to express my support for the compromise provisions contained within S. 2899, the National Institutes of Health Revitalization Amendments of 1992.

Fetal tissue transplant research holds the promise of finding cures for crippling diseases such as Alzheimer's, Parkinson's disease, spinal cord injury, diabetes, and many other life threatening conditions. S. 2899 offers a sound approach to helping the thousands of people who suffer from these afflictions. Our continued delay on this necessary research is turning the hope and optimism of millions of ill Americans and their families into despair and resignation.

This legislation contains important safeguards and guidelines that prevent abuse of this research. It adopts the protections as recommended by the National Institutes of Health Task Force that ensure separation between research and the decision to perform an abortion.

It is critical that we do not ignore ethical guidelines or exploit this research in our haste to save lives. This bill will set forth necessary and ethical guidelines and regulations, as well as strict penalties for violations of those guidelines.

S. 2899 requires that consent to the abortion precede the consent to donate the fetal tissue. The mother may not be informed as to the identity of the individuals who will receive the tissue transplant, nor can she identify to whom the tissue will be donated. The recipient of the tissue must be informed by researchers that the tissue is human fetal tissue and the tissue may have been donated as a result of an induced abortion.

S. 2899 would require that the physician make known any interest that he may have in the research to be conducted with the donated tissue. Researchers and physicians may not contribute to any costs associated with the abortion. The bill prohibits the physician or researcher from altering the timing, method, or procedure used to terminate the pregnancy in order to obtain a better fetal tissue sample. Procedural changes which may cause greater than minimal risk to the fetus or the pregnant woman are prohibited. Additionally, the bill will outlaw the purchase, sale or solicitation of fetal tissue. This legislation would assess fines, or mandate imprisonment for violations relating to this act.

In addition to these safeguards contained in the original version of this bill, H. R. 2507, this legislation will require researchers to first request tissue from the bank established under President Bush's executive order. If the bank is unable to supply tissue within 14 days, the researcher would be permitted to use tissue from other sources.

I believe that the safeguards contained within this legislation effectively prevent, and ultimately prohibit, potential abuse of fetal tissue research. S. 2899 will give Federal support to essential research that may help millions of suffering Americans.

## CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

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 the debate on the motion to proceed to S. 2899, a bill to revise and extend programs of the National Institutes of Health:

Paul Simon, Harry Reid, Frank Lautenberg, George Mitchell, Carl Levin, Jim Sasser, Joe Biden, Daniel K. Inouye, Alan Cranston, Tom Harkin, Edward M. Kennedy, Howard Metzenbaum, John F. Kerry, Paul Wellstone, Jay Rockefeller, and Brock Adams.

## CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

## VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2899, the NIH reauthorization, shall be brought to a close? The yeas and nays are required. The clerk will please call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

The yeas and nays resulted—yeas 85, nays 12, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—85

| | | |
|---|---|---|
| Adams | Garn | Mitchell |
| Akaka | Glenn | Moynihan |
| Baucus | Gorton | Murkowski |
| Bentsen | Graham | Nunn |
| Biden | Grassley | Packwood |
| Bingaman | Harkin | Pell |
| Bond | Hatfield | Pryor |
| Boren | Heflin | Reid |
| Bradley | Hollings | Robb |
| Breaux | Inouye | Rockefeller |
| Brown | Jeffords | Roth |
| Bryan | Johnston | Rudman |
| Bumpers | Kassebaum | Sanford |
| Burdick, Jocelyn | Kasten | Sarbanes |
| Byrd | Kennedy | Sasser |
| Chafee | Kerrey | Seymour |
| Cochran | Kerry | Shelby |
| Cohen | Kohl | Simon |
| Conrad | Lautenberg | Simpson |
| Cranston | Leahy | Specter |
| Danforth | Levin | Stevens |
| Daschle | Lieberman | Thurmond |
| DeConcini | Lott | Wallop |
| Dixon | Lugar | Warner |
| Dodd | Mack | Wellstone |
| Dole | McCain | Wirth |
| Domenici | McConnell | Wofford |
| Exon | Metzenbaum | |
| Fowler | Mikulski | |

NAYS—12

| | | |
|---|---|---|
| Burns | Ford | Nickles |
| Coats | Gramm | Pressler |
| Craig | Hatch | Smith |
| D'Amato | Helms | Symms |

NOT VOTING—3

| | | |
|---|---|---|
| Durenberger | Gore | Riegle |

The PRESIDING OFFICER (Mr. FORD). Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. SYMMS. Mr. President, I suggest the absence of a qourum.

Mr. KENNEDY. Mr. President, regular order. There has been no intervening business between the call of the roll on the cloture motion.

The PRESIDING OFFICER. The Senator from Massachusetts is correct.

Mr. SYMMS. Mr. President, I rise to take the floor, and I had a little bit of housekeeping I wanted to do before I commence my remarks to my colleagues. So I suggest the absence of a quorum.

Mr. KENNEDY. Regular order. I make the same point of order that was made before.

The PRESIDING OFFICER. There has been no intervening business, and the Senator from Massachusetts is correct.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might speak as in morning business for 30 seconds to insert a speech into the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## WILLIAM J. AGEE ON RAIL TRANSPORTATION

Mr. SYMMS. Mr. President, on September 23, William J. Agee, the chairman and chief executive officer of Morrison Knudsen Corp., delivered the keynote address at the sixth annual American Railroad Conference in Chicago. That speech has garnered very wide acclaim in national print media and trade journals, and I take this opportunity to call it to the attention of my Senate colleagues.

My long time friend, Bill Agee, has turned the Morrison Knudsen Corp. into the Nation's leading rail transportation construction company, and in the process, Bill has himself become one of the Nation's leading authorities on the multimodal future of transportation in the United States. His remarks should be read carefully by Members of Congress, policymakers in the administration, and business men and women across the country planning the future of their business investments and growth opportunities.

Bill notes correctly that congestion is a fact of life today for passengers on many of our Nation's highways and at airports across the country. Rail transportation, particularly high-speed passenger rail service, can help solve those congestion problems in an economically and environmentally sound fashion.

I ask unanimous consent that Mr. Agee's speech be printed in the RECORD following my remarks, and I urge my colleagues and their staffs to use the few minutes it will take to read his important remarks.

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

A LOOK AT AMERICA'S RAIL INDUSTRY

(Remarks by William J. Agee)

It's great to be in Chicago, to see so many friends and to spend some time together talking about America's rail industry.

As many of you know, railroads are a subject very dear to me and very dear to the entire Morrison-Knudsen family. Our company's heritage is steeped in America's rich railroad tradition. And we've made a commitment to carry that tradition forward into the next century.

So I'm very excited to be here and to have the chance to share with you my thoughts about where we've been, where we are and where we're going as an industry.

Chicago is an appropriate place to discuss these issues because it's been—perhaps more than any other city—the hub of America's transportation system. It's the center of our railway supply industry. And it's home to the country's premiere commuter rail system.

Early in our history, Chicago was a great staging ground for the builders of a new nation. Chicago witnessed the legendary struggles and triumphs of the men and women who built America's Railroads. And it was in large part as a result of their efforts that Chicago became one of the world's great commercial centers.

It was not far from here—during the last century—that a young aspiring politician was first captivated by rail's promise.

Abraham Lincoln was just beginning his political career when he was called to serve in the Blackhawk wars. It was there in the north woods of Illinois—as he watched armies of men and wagons mired in mud—that Lincoln was first inspired by a vision of railroads revolutionizing travel in Illinois and across the country.

Returning home, he made rail a campaign issue, speaking of railroads as a "never-failing source of communication" which "no other improvement can equal in utility."

We've come far since Lincoln's day. When travelers in America slogged along muddy roads. When commerce was slow and uncertain. When information moved at a wagon's pace.

Led by many of the people and companies represented in this room. We built the world's greatest system of railroads, highways and airports. And they helped revolutionize American travel, business, communications—and ultimately—our way of life.

Did we achieve some of the promise that Lincoln dreamed of? You bet. But have we been able to live up to his ideal of transportation as a "never-failing source of communication?" or even an almost-never-failing source of communication?

Clearly, the answer is no. Far frcm it.

Consider this:

At the turn of the century, America's standard form of travel was the horse-drawn carriage. Average speed—about 11 miles per hour. Right now in New York City automobiles are averaging 6 miles per hour.

Now you have to ask yourself, is that progress?

What would Lincoln think if he hopped in a car and tried to get out to O'Hare today during rush hour? Sooner or later, he'd be missing the horse and wagon.

The average commuter in Los Angeles spends 4 hours and 20 minutes—each day—going back and forth to work. Some say people from southern California are laid-back. I think they're just constantly exhausted by the commute.

Each year, Americans are forced to waste 2 billion hours and 3 billion gallons of fuel sitting in traffic. By the end of the decade, that's going to cost us $50 billion in lost wages and fuel.

It's no secret that America's transportation system is in crisis. Across the country—in our cities, towns and in the countryside—we're seeing aging roads and bridges deteriorate. At the same time, we're using them more and more. And—surprise, surprise—conditions are getting worse.

And there's no end in sight.

Unless something changes, over the next 20 years, congestion on our freeways will more than quadruple. It will double on our nonfreeway system. And it will increase tenfold in low population areas.

Things are so bad already in so many places, that it's hard to imagine what that kind of traffic would look like.

Let me give you an example.

Recently, a group of experts was asked to figure out how much Florida would have to expand highway I-95 between Miami and Fort Lauderdale to handle traffic 28 years from now—in the year 2020. They concluded—no joke—that 44 lanes would just about do it.

Ladies and gentlemen, there's a serious message here. We can't go on paving over America and calling it progress.

Make no mistake, the stakes are high. We're not just talking about wasted time and wasted fuel; 68 cities are failing Federal air pollution standards for ozone and almost as many can't meet carbon monoxide guidelines. Over 100 suburban areas exceed the limits.

All told, that means 150 million Americans live in areas where the air quality is below acceptable levels. The American Lung Association estimates that the national health care bill for air pollution is $40 billion per year.

So what's the alternative? How can we accommodate our growing transportation needs? The airlines? Well, I think we all know the answer to that one from hard experience.

Today, most airline passengers on trips of 1,000 miles or less spend more time on the ground than in the air. You know the routine. You sit on the runway at both ends. You have to commute to and from the airports. It adds up. A 2-hour flight from Denver to Chicago can consume half a work day, door to door.

The Federal Aviation Administration says that each year air travelers sit through 20,000 hours of flight delays, that costs us $5 billion in wasted time and fuel. It would take an awful lot of complimentary drinks and honey-roasted peanuts to make up for that.

Even if we could build more airports quickly enough—and we clearly can't—that's not the answer. The skies above our major airports already look like the San Diego freeway on a holiday weekend.

That brings us to rail. And as you know, the picture in our industry is quite different.

Unlike the highways and airports, railroads aren't overburdened. Without adding track, railroads are capable of carrying four times the traffic they do now. Rail is the only mode of transportation that offers us a way to immediately begin easing the pressure on our transportation system.

Rail also provides creative approaches to improving the way we use other modes of transportation. In fact, we've been doing it for years. We began piggy-backing trucks on trains a long time ago. Today it's become the rail industry's fastest-growing segment.

And as higher labor and insurance costs continue to change the economics of trucking, we're working with trucking industry leaders such as J.B. Hunt and Schneider National to offer even better door-to-door service.

But wait. If rail provides answers to many of our transportation problems. Why isn't it playing a big role in solving our transportation crisis today?

Everyone in this room knows the answer.

It's fact of life in our industry that, for far too long, rail has been a relatively national low priority. During the next 5 years, the United States plans to invest barely over 1 percent of our Federal transportation dollars in rail. That's one of what the European Community will invest in its rail network.

Rail has been the Cinderella of the transportation family—the neglected stepchild. Highway building has been heavily subsidized while rail has been left largely to its own devices. Airport builders benefit from tax incentives. Trucking is given preferential treatment. But by and large rail has to pull its own weight.

None of this is news to you. The people in this room have had front row seats as America's rail industry struggled over the years to overcome neglect and underfunding—the result of this country's bias toward highways and airports.

The good news is that despite this inequitable treatment, the industry came through the 1980's in fairly good shape. Since deregulation 12 years ago, railroads have improved services and cut operating expenses. Revenue per mile increased significantly at the same time that the number of locomotives decreased by 25 percent. That's a major accomplishment in any industry.

During the 1980's, railroads invested more than $30 billion in new and improved equipment and another $100 billion in maintenance. Unproductive assets were shed and, today, more than 200 new short line and regional railroads are operating profitably in facilities once slated for abandonment.

And the rail industry has been bringing new technologies to the market. As a result, various measures of output rose during the 1980's. Freight-car utilization up 13 percent. Operating efficiency up 51 percent. Fuel efficiency up 36 percent.

As individual businesses and as an industry we have a lot more to do if we are going to be competitive during the 1990's. We also have to continue improving operating ratios, cutting costs while increasing services and sustaining growth.

These are formidable challenges. But I believe that we are beginning to move in the right direction—as an industry and as a nation. I believe that in some very important respects we are in a position much like the one we were in during the 1950's.

Back then, America was emerging as a superpower in a world still recovering from War. We were just beginning to confront a host of dramatic changes that transformed life in the wake of the allied victory. It was a time of tremendous opportunity—and we were poised on the brink of unprecedented economic growth.

But President Eisenhower and congressional leaders from both parties recognized that this golden opportunity could be lost unless something was done about our roads, which had been badly neglected during the war years.

If you think about it, this scenario sounds familiar, doesn't it? America fresh from leading the forces of democracy to a historic victory. A new world order in the making. An uncertain promise of prosperity and growth in a transformed global economy. And the Nation confronting the urgent need to get its house in order to be able to realize the promise of this new era.

How did we respond in the 1950's.

We rolled up our sleeves and built a modern highway system that was the envy of the world. It wasn't easy and it didn't come cheap. But Government provided the vision and the financing through the Interstate Highway Act. And Americans across the country did the rest. And that great construction effort helped kick-start the most powerful economic engine the world has ever seen.

I'm optimistic about the future of the Nation and of our industry because I believe America will rise and seize this moment again. And I believe that—this time—our solution to the problem will focus on rail as the key transportation resource.

Last year, we took an important step in that direction by making a substantial national commitment to improving our transportation system. Congress passed, and the President signed into law, the Intermodal Surface Transportation Efficiency Act of 1991.

This legislation authorizes $151 billion for rebuilding transportation systems across the country. But just as important, it put in place a balanced, and much more promising, approach to transportation.

For the first time, cities and States will be able to use highway trust funds for intermodal transportation planning. That's important because, as you know, an intermodal system combines the various modes of transportation—road, air and rail—so that they work together efficiently.

I take this as a promising sign that American transportation and infrastructure policy is finally climbing out of its philosophical rut. For far too long, we've been stuck in a rut in which highways and airlines and railroads were forced to fight each other every step of the way.

Rail had its hand tied in that fight, so it was really no contest. The results were good for builders of highways and airports, but they weren't very good—as we've seen—for the traveling public, American businesses or the national economy.

Our new approach proposes using rail, road and air travel in combinations that are more the result of informed planning rather than special interest lobbying.

I'm convinced that's good for rail. Why? Because on a level playing field, our industry's comparative advantages will allow us—finally—to bring rail's full value to America's transportation marketplace.

A national transportation policy based on the principle of intermodalism is good for rail because—guess what?—in much of the country, rail is the missing piece of the transportation puzzle. And under any truly intermodal system you can imagine, rail plays a central role.

And it's already beginning to happen.

Cities and States are taking advantage of their new-found freedom to establish priorities for intermodal systems. And local initiatives featuring rail are in the works across the country. Voters in Wisconsin, for example, recently amended their State constitution to invest State gasoline tax revenues in rail-passenger projects.

As you can see, I'm an optimist when it comes to our industry. But I also understand that—as in the past—there are no guarantees and no shortcuts on the way to a world class transportation system.

It won't come easy. It won't come cheap. And there are some fundamental challenges that we must accept if we are going to succeed.

First, we need to make sure that we fully restore balance to America's transportation and infrastructure policy. We've taken a first crucial step on the legislative front. Now we need the tools to unleash rail's potential.

We need tax exempt financing. We need relief from onerous red tape and work rules. In short, we need equal treatment with other modes of transportation.

At every level of government, when public transportation policy is being made, rail has to be represented. As we plan the transportation systems of the future, we have to take a close look at the comparative costs and benefits of various modes of transportation.

These objective factors—no special interest agendas—should form the basis of our national, State and local transportation plans.

We know the facts about trucks, for example. A twin axle rig can cause as much as $1.80 in road damage, and yet the operator pays only 4 cents per mile in road-use taxes.

Compare that to rail. Unlike highways, railroad rights of way are privately built and maintained. Yet railroads recently got hit with tax increases while trucks continue to enjoy their sheltered status.

This inequitable treatment has got to stop. Our industry supports weight-distance user charges and I believe they should be seriously considered and in some cases adopted. In any case, the guiding principal should be fairness.

Let me say it loud and clear. All the American rail industry asks for is a fair shake. On an equal basis, on a level playing field, we'll compete with anyone, anywhere. Just don't expect us to stand by quietly when the game is rigged.

I believe that—ultimately—the greatest challenge facing the rail industry is commu-

nication. Now more than ever, we need to take the case for rail to the American public—to Washington, to the States and to the grassroots.

America needs to know about the many advantages that rail brings to the table. We have to tell people that the rail is a high tech industry that can provide productive jobs and serve as a catalyst for economic growth.

Gone are the days when railroads just meant heavy metal and brute power. They still have the muscle, but now they have the brains to match.

We have to tell America that today's advanced rail systems use some of the most sophisticated technologies around. That we are developing more and better applications—advanced light rail, very high speed rail, maglev technologies. And super-sophisticated parts such as computerized transit system components.

MK is working on one of the most exciting high tech projects in our history—Texas high speed rail. Anyone who's spent more that 10 minutes with me knows all about it.

It will be the Nation's first very high speed train. Running from Dallas to Houston and capable of carrying 12,000 passengers a day at 200 miles per hour of comfortable speed. And it will become a part of a system connecting every major city in Texas.

I believe that 20–30 years from now, we'll have very high speed rail trains operating in 6 to 10 markets. And we'll have high speed rail trains such as the Amtrak Metroliner doing 150 miles per hour in 8 to 10 markets. In addition, we have the prospect of maglev trains running at over 300 miles per hour.

We as an industry are serving notice—the day of America lagging the rest of the world in rail technology are over.

We need to tell American that the rail industry can provide high tech transit to help accommodate new development and to complement roads and airports. That the transit systems of the future will use high speed rail to link urban centers to out-of-the-way regional airports.

We need to tell America that these intermodal systems will create regional "super hubs"—such as an O'Hare superhub right here outside Chicago. And much like the rail hubs of early American history, these modern day crossroads will help spur economic growth.

Imagine San Antonio as a super hub. A gateway to Mexico much like Hong Kong serves as a gateway to China. Like Hong Kong, the San Antonio-Monterey corridor would be transformed into a hotbed of entrepreneurial activity.

We have to tell America that we are developing new strategic alliances in order to maximize asset utilization and bring diverse resources to bear on today's increasingly complex projects.

MK has been fortunate to have the opportunity to form such an alliance with one of Illinois' favorite sons, Caterpillar. Together, we are introducing three new locomotives.

They include the world's first single-engine, 5,000 horse power locomotive with 25 percent more power than the industry's current heavy haulers. It will allow railroads to significantly boost tonnage hauled per unit. We're talking about three-for-four and sometimes two-for-three unit replacement ratios.

We have to tell America that rail is good for the environment. That rail is the environmentally-friendly transportation alternative.

This is a critical advantage—on one of the biggest issues of the 1990's, we're squarely on the winning side. Environmental groups have been strong supports of Texas high speed rail and I believe they will support us in other projects.

Locomotives account for 1 percent of all emissions into the air. And we are working on ways to decrease that further. By comparison, motor vehicles such as cars and trucks—on the other hand—cause over 30 percent of carbon dioxide pollution. They cause 40 to 60 percent of the hydrocarbon pollution. They cause 70 to 80 percent of the carbon monoxide pollution. Tracks emit 10 times more diesel particles and hydrocarbons and 3 times more nitrous oxide and carbon monoxide.

MK is teaming with Caterpillar to offer the first locomotive powered solely by clean-burning natural gas. This 1,200 horse power switcher that will help key regions of the country to comply with the Clean Air Act.

Now, these locomotives may not be an industry-wide solution, but they demonstrate how quickly we are able to adapt new technologies to do our part for a cleaner environment.

Ladies and gentlemen, despite all the serious challenges we face as an industry, we have a good story to tell. And we must take every possible opportunity to tell it.

Perhaps most importantly, we have to tell the American people that the Nation has arrived at a crossroads. One road takes us further along the previous path of ad hoc transportation policies that favor roads and airports. Given our experience, that's ultimately a slow road to nowhere.

The other road leads in an entirely different direction. Toward a transportation system that takes full advantage of today's promising rail technologies. Toward an intermodal intelligent transportation system second to none. Toward a transportation system that provides a solid foundation for America's economic development during the 1990's and beyond.

Mr. SYMMS. 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 (Mr. BUMPERS). Without objection, it is so ordered.

## THE CABLE TELEVISION BILL

Mr. PRESSLER. Mr. President, I wish to state very clearly, as I have stated, that I shall retain my position on the cable television bill.

I was an original sponsor of that bill. I serve on the committee. I have worked closely with Senator DANFORTH. I believe I voted for that bill four or five times. And in the event of a Presidential veto, I shall continue that position.

I wanted to say that to clear the air, because there has been a great struggle over this bill. I know that. I have urged the President to sign the bill into law or to let the bill become law.

In my State of South Dakota, there are enormous issues regarding cable television. They are perhaps unique, but we do need to get more public service programming. We do need to have more options for the pay-per-view people who are interested in sports. There is a whole host of issues, and I have spoken on those issues on this Senate floor many times. For me to change my vote at this point would run against my principles.

But I wanted to say that in a speech because there is a great struggle underway. There are a number of rumors about who is going to vote which way in the case of a veto override. I shall maintain my position.

I urge that the President sign the bill. I hope that he will do so in the next few hours.

I yield the floor.

Mr. WIRTH. Mr. President, I ask if I might speak for 10 minutes as if morning business.

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

Mr. WIRTH. Thank you Mr. President.

## SETTING THE RECORD STRAIGHT ON IRAQ

Mr. WIRTH. Mr. President, Senator GORE apparently hit a raw nerve in his recent speech on our country's policy in Iraq and the Middle East overall.

In detailing the President's coziness toward Saddam, Senator GORE provided an accurate indictment of a foreign policy blunder.

The reaction last night on the Senate floor revealed how sensitive this matter is, and rightly so.

George Bush's attempt to befriend Saddam had many loyal supporters. Senator GORE'S critique hit home. It seems to me that, to paraphrase Shakespeare, some "doth protest too much."

The record of the Bush administration's failed policy toward Iraq is clear. There is no dispute about that record. The only real issue is what this sad record says about the President's judgment—and common sense tells us what a devastating failure of judgment his policy represented.

What is so disturbing is the moral blindness which allowed an American President to stroke and coddle this vicious despot. In foreign affairs, where is the clear moral compass to steer this administration?

This moral blindness was clearly evident in the administration's handling, for example, of the Voice of America scandal. As many Senators, I am sure, will remember, the VOA broadcast an editorial on February 15, 1990, entitled "No More Secret Police." This editorial properly and accurately reflected American values.

Let me quote a few passages from what the Voice of America said:

A successful tyranny requires a strong, ruthless secret police force. A successful democracy requires the abolition of such a

force. That is the lesson the people of Eastern Europe have learned well in more than four decades of tyranny. * * * Secret police are also entrenched in other countries, such as China, North Korea, Iran, Iraq, Syria, Libya, Cuba and Albania. The rulers of these countries hold power by force and fear, not by consent of the governed. But as East Europeans demonstrated so dramatically in 1989, the tide of history is against such rulers. The 1990s should belong not to the dictators and secret police, but to the people.

And then the VOA announcer closed by stating "That was an editorial reflecting the views of the U.S. Government". He might also have added that the editorial reflected the values of the American people.

In any case, the announcer was soon proved wrong. Saddam took terrible offense that the VOA would broadcast such critical things about his police state and within 2 weeks Secretary of State Baker sent a cable to our Ambassador in Baghdad with instructions to apologize for this offensive language. Let me quote a few key passages from that cable, now declassified, dated February 27, 1990:

It is in no way U.S. Government policy to suggest that the government of Iraq is illegitimate or that the people of Iraq should or will revolt against the government of Iraq. We regret that the wording of the VOA editorial left it open to that incorrect interpretation.

The cable, signed by James Baker, now George Bush's campaign manager, added that the "Department believes that failure to clear the text of the editorial represents a violation of the understanding we have with USIA, and by extension, VOA. We intend to follow up."

And follow up they did, Mr. President. The next day, February 28, U.S. Ambassador April Glaspie sent a letter to Iraq's Foreign Minister, Tariq Aziz, stating:

I was surprised to learn from Undersecretary Hamdoon on February 25 of the existence of a Voice of America editorial entitled "No More Secret Police." I conveyed your concern to my Government, and was immediately instructed to assure you that it is absolutely not United States policy to question the legitimacy of the Government of Iraq nor to intervene in any way in the domestic concerns of the Iraqi people and government.

My Government regrets that the wording of the editorial left it open to incorrect interpretation.

As Assistant Secretary Kelly told His Excellency the President on February 12, President Bush wants good relations with Iraq, relations built on confidence and trust, so that we can discuss a broad range of issues frankly and fruitfully. I am sorry that the Government of Iraq did not inform me of its concern about the editorial sooner, so that I could have provided you with the official assurance of our regret without delay.

Mr. President, not only did she apologize that the U.S. Government had the audacity to criticize tyrannical regimes, but our Ambassador apologized for not being able to apologize sooner.

As if this were not enough, a delegation then met with Saddam in Mosul, Iraq in April 1990 and according to available transcripts confirmed in later press interviews further apologized for this indiscreet VOA editorial. It is no small irony, Mr. President, that this meeting took place in the Kurdish part of Iraq—an area devastated by Saddam's attempted genocide of the Kurds. All around that meeting site was ample evidence of vicious, brutal, violent repression, evidence of attempted genocide against the Kurds, evidence of the use of chemical weapons to kill innocent men, women, and children whose only crime was their heritage.

It would have been inconvenient to focus on genocide. The Reagan-Bush administration had, after all, vehemently opposed congressional efforts to pass the Prevention of Genocide Act in response to Saddam's brutal slaughter of the Kurdish people. Instead, the U.S. delegation to Saddam reportedly engaged in mutual criticism of the spoiled and conceited Western press and informed Saddam that the VOA official responsible for that outrageous assault on the moral credentials of the Iraqi despot would be fired.

Mr. President, there was nothing to apologize for in that VOA broadcast. Nothing at all. It rightly reflected American values. It stood up for freedom from tyranny. It stood up for democracy. The fact that our Government felt it necessary or even appropriate to apologize for the VOA defense of freedom speaks volumes about the moral blindness which led the administration to coddle Saddam right up to the invasion of Kuwait. And we have paid a high price for that blindness.

Also, Mr. President, how about George Bush's opposition to sanctions against Iraq right up until the invasion of Kuwait.

As late as July 27, 1990—4 days before the invasion—the Senate considered a Gramm-Dole amendment to gut meaningful sanctions against Iraq. The amendment, which had the support of the Bush administration, failed. One of our Republican colleagues, the junior Senator from Kansas, also voted on the 6-D amendment, put it well in that debate on Iraqi sanctions:

There is no one who feels more strongly than myself that food should not be used as a weapon. But * * * there comes a time when I think we have to stand up and be counted.

Had the Bush administration demonstrated the moral compass of the junior Senator from Kansas, had Bush stood up to Saddam earlier, had Bush's foreign policy reflected American values, we may well have succeeded in containing Saddam's aggression at home and abroad.

I ask unanimous consent that the full text of the VOA editorial, the State Department cable from Secretary Baker to the U.S. Embassy in Baghdad and the letter from Ambassador Glaspie to Tariq Aziz be printed in the RECORD immediately following my remarks.

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

[Voice of America, Feb. 15, 1990]

NO MORE SECRET POLICE

Announcer: Next, an editorial reflecting the views of the U.S. Government.

Voice: A successful tyranny requires a strong, ruthless secret police force. A successful democracy requires the abolition of such a force.

That is a lesson the people of Eastern Europe have learned well in more than four decades of tyranny. As East Europeans have replaced Communist regimes with moderate interim leaders, and begun to prepare for democratic elections, they have moved to dismantle secret police forces. In Czechoslovakia, the secret policy headquarters building in Prague has been completely emptied. Secret police employees have been ordered to turn in their handguns and identity cards, and to stay at home until the new non-Communist Interior Minister decides what to do with them. They will no longer be kept busy spying on their fellow citizens—or engaging in even worse crimes.

The governments of Poland, Hungary, Bulgaria and East Germany are also looking for productive work for former members of the secret police. It is an especially large task in East Germany because the secret police, known as the Stasi, had about eighty-five thousand full-time employees, along with huge caches of weapons, scattered in buildings around the country. When the East German government suggested that it might replace the Stasi with another internal security agency, a crowd of demonstrators at the Stasi headquarters in East Berlin made it clear that no more secret police are wanted. Graffiti scrawled on the walls read: "Stasi, Gestapo, KGB, Securitate: all bloodsuckers."

In Romania, many people shed their blood to overthrow the Ceausescu tyranny. They had to fight against well-armed secret police, the dreaded Securitate, which fought to the bitter end to maintain its grasp on power. Romania's interim government has said it is committed to the complete disbanding of the Securitate, but many people are concerned that secret police are still active in the country. On a brief visit to Romania on Sunday [February 11] U.S. Secretary of State James Baker stressed the need to dismantle the secret police completely. Mr. Baker said the U.S. wants to help Romania, but such help will depend on the extent of internal reforms and on whether the elections planned for May are free and fair.

The Soviet Union has also made significant reforms in recent years, but the secret police apparatus, the KGB, remains a powerful and feared institution. Lasting change can come to the Soviet Union only when citizens no longer need to fear massive surveillance—and worse—from the KGB. Secret police are also entrenched in other countries, such as China, North Korea, Iran, Iraq, Syria, Libya, Cuba and Albania. The rulers of these countries hold power by force and fear, not by the consent of the governed. But as East Europeans demonstrated so dramatically in 1989, the tide of history is against such rulers. The 1990s should belong not to the dictators and secret police, but to the people.

Announcer: That was an editorial reflecting the views of the U.S. Government.

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*O 270810Z FEB90.*

Fm: SECSTATE WASHDC.

To: AMEMBASSY BAGHDAD IMMEDIATE.
Info: USIA WASHDC IMMEDIATE.
E.O. 12356: DECL: OADR.
Tags: PREL IZ.
Subject: Iraqi protest: VOA editorial.
Ref: BAGHDAD 1150.

1. Confidential—entire text.

2. Ambassador may respond to the Iraqi protest (REFTEL) over February 15 VOA editorial by making the following points:

It is in no way USG policy to suggest that the Government of Iraq is illegitimate or that the people of Iraq should or will revolt against the Government of Iraq.

We regret that the wording of the VOA editorial left it open to that incorrect interpretation.

3. FYI: Department believes that failure to clear the text of the editorial represents a violation of the understanding we have with USIA, and by extension, VOA. We intend to follow up.

BAKER.

Declassified under the Freedom of Information Act 7/26/90.

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EMBASSY OF THE
UNITED STATES OF AMERICA,
*Baghdad, Iraq, February 28, 1990.*

His Excellency Deputy Prime Minister and Minister of Foreign Affairs TARIQ AZIZ,
*Baghdad, Iraq.*

DEAR MR. MINISTER: I was surprised to learn from Undersecretary Hamdoon on February 25 of the existence of a Voice of America editorial entitled "No More Secret Police." I conveyed your concern to my Government, and was immediately instructed to assure you that it is absolutely not United States policy to question the legitimacy of the Government of Iraq nor to intervene in any way in the domestic concerns of the Iraqi people and government.

My Government regrets that the wording of the editorial left it open to incorrect interpretation.

As Assistant Secretary Kelly told His Excellency the President on February 12, President Bush wants good relations with Iraq, relations built on confidence and trust, so that we can discuss a broad range of issues frankly and fruitfully. I am sorry that the Government of Iraq did not inform me of its concern about the editorial sooner, so that I could have provided you with the official assurance of our regret without delay.

Respectfully,

APRIL GLASPIE,
*American Ambassador.*

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. Mr. President, I do not know how long the Senator from Colorado will remain in the Chamber but I hope he might do so. I will be saying some things about his remarks, including my own remarks from last night.

I would just like to review—and I welcome other Members to come forward, because I would enjoy the debate—some of the events that occurred last night here on the floor.

I had not finished my remarks last evening when my longtime friend, Senator DAVE PRYOR, came to the Senate floor to challenge some of my comments. DAVID PRYOR is a remarkable man. He is probably one of the most respected men in this Chamber. He is fair, firm, kind—and the kind of person you would want on the Ethics Committee. That is where he served for so many years and did it with superb energy—so much energy that he placed his own health in jeopardy and he has recovered nicely and has indeed been in our prayers.

He was very concerned. There is no question about his concern. He was deeply moved, filled with angst, and I understand that so very clearly.

Before I could complete my address, we subsequently moved on to the transportation bill. So I would like to do that at this time.

Senator AL GORE made what was billed as a major foreign policy speech on Tuesday. It received tremendously wide media attention in both print and television. I want to reiterate this so that we have everything in order here as we review all of this: Not one Republican made any type of response on this floor to Senator GORE's speech until it was then entered into the CONGRESSIONAL RECORD by Senator WIRTH on September 29, 1992.

Last night it was alleged that I had violated Senate rule 19.2. We know what that rule is. We discussed that last night. The rule 19.2 states:

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

What Senator GORE said about Senator DOLE and this Senator from Wyoming in his public speech Tuesday in the public record and domain is fair game. There is nothing wrong with that. You can say anything you want to about a colleague in public, and he did. And I will quote that in a minute.

But I would clearly point out that Senator GORE's statement, which later came into the official proceedings of the U.S. Senate, when it was placed in the CONGRESSIONAL RECORD, included a number of the most egregious and wholly erroneous characterizations of not just one U.S. Senator but five U.S. Senators, as a result of a visit to Iraq.

Not only did that traveling group include Senator DOLE and myself, as the Senator correctly indicated, but it also included Senator MURKOWSKI, Senator MCCLURE and Senator METZENBAUM.

Senator GORE accused us of delivering—I guess that meant all of us because 5 of us were there—at President Bush's personal request, so-called comforting news to Saddam Hussein. He characterized this as an official mission on behalf of the President. Accordingly, anyone who reads the RECORD could reasonably assume that we, according to Senator GORE, were part and parcel of the President's foreign policy. He characterized that as a policy of coddling tyrants, which Senator GORE said had been the hallmark of the administration's foreign policy.

Senator GORE said, and I quote from his speech which then became part of the CONGRESSIONAL RECORD—please hear this—he said, "Yet, on April 12, at the personal request of George Bush, Senators BOB DOLE and ALAN SIMPSON, the No. 1 and No. 2 Republican leaders in the Senate, traveled to Baghdad and told Saddam Hussein that President Bush was still ready to veto any sanctions bill that Congress might pass. Furthermore they delivered, "again at Bush's personal request" and this is still the quotation "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."

That is a direct quote from Senator GORE's speech which was placed in the CONGRESSIONAL RECORD by Senator WIRTH.

Based upon what we all know now about Saddam's deceit and tyranny, an unsuspecting reader of Senator GORE's speech might easily assume that we had given aid to an enemy. Surely there can be no more egregious violation of rule 19.2 than that. I deeply resent it, and I am offended by it.

Neither Senator WIRTH nor Senator GORE ever consulted with me prior to making such a statement concerning the motives of not one but five U.S. Senators. I have not the slightest difficulty accepting anything that the Senator from Tennessee wants to say about me in his recent speech at the Hyatt in Washington. But when it gets into the CONGRESSIONAL RECORD under the auspices of the Senator from Colorado, then it, too, is a violation of rule 19.2 without any question whatsoever, and a Parliamentarian has already determined that. That is where we are in this interesting little exercise.

At this point, I would like to note Senator BOB DOLE's response to Senator GORE's comments on this trip. I think it pretty well sets the record straight.

Senator DOLE said:

The delegation was bipartisan and included the senior Senate Democrat with that group, HOWARD METZENBAUM, Democrat of Ohio. The delegation did not go to the Middle East or Iraq at the "personal request of Bush" or the indirect request of Bush or with any reference to Bush at all. I made the decision to go based on the suggestion of other Middle East leaders, such as President Mubarak and King Hussein of Jordan and some of my colleagues and advisers. Senator METZENBAUM and others decided to accompany me entirely on their own. Having decided to go to Iraq, we did inform President Bush of our intention the night before we met with Saddam Hussein.

It would be well when making irresponsible statements to check with the sources, especially when those sources are your colleagues.

We went to the Middle East. We did not believe we would have any opportunity to see Saddam Hussein, and we went. I believe I can paraphrase what our fine Republican Leader said: With peace breaking out all over the world,

why not go to that part of the world and talk to the leaders there and talk about peace in that terribly historically, strife-torn region of the world? That excited us all. We went with excitement because the Berlin wall had come down, other things were happening, tyranny was being crushed all over Eastern Europe. It was a very exciting time.

The specific assertions in Senator GORE's speech about the delegation's trip are dead wrong. We delivered no message of any kind from President Bush about his intentions to veto any legislation. That is a fallacy. We delivered no message from President Bush about the Voice of America report, not one. Both topics were discussed, but not in the context of "delivering any message" from President Bush.

And remember, the only official transcript that came from our visit came from Iraqi radio. Iraqi radio sent the transcript of their version of our meeting to the national and international media which was hopped on pretty well with the case of the Senator from Wyoming because I referred to the media as "haughty, pampered, cynical," and many other interesting adjectives which I felt then, and still feel. And, indeed, in the context of those times when visiting with the press corps in that part of the world, it seemed almost disappointing to them, that perhaps there would not be a conflagration in that part of the world. They were almost saddened by that.

It was a strange reaction. They talked about, "Well, does this mean there will not be a great fireball against Israel?"—which is what Saddam Hussein had said. I said I think that is a stupid statement. We are here to discuss such issues and you can bet that we did. Certainly, Senator METZENBAUM did, I can assure you of that. He was powerful, persuasive, and excellent in his presentation.

Then we talked about conventional warfare in that part of the world and we hoped we could avoid that. We said it is all up to you, Saddam Hussein, as to whether we avoid conventional warfare in this part of the world. Then I shall never forget the words of Senator BOB DOLE. He said, "I have a daily reminder of the effects of war in my own body, and we are here to talk about peace."

That is what we talked about. Whatever transcript or information which came from that came from Iraqi radio or Iraqi television. You can only imagine what little twist they would have put on all that!

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts of a letter I submitted to the Casper Star-Tribune which further discusses our visit with Saddam Hussein.

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

DEAR EDITOR: [The] transcript, issued by this deceitful government who we are warring with—describes in 15 small pages approximately one hour of what was in reality a three hour and fifteen minute meeting. At that meeting we discussed the gassing of the Kurds, the 150 foot "tube" cannon of "oil field equipment," the triggering devices for nuclear weaponry and the hanging of the English journalist. We asked all the questions any thoughtful American would have asked on that date in time. We also carried with us a letter signed by the five of us, and cleared with the President, setting out the perils in his future life if he were to continue his course of action in the world. Obviously that released transcript, supplied (not "leaked") by Iraqi officials—carefully avoids any form of criticism which we leveled in the face of Saddam. Our own tape recorders were confiscated by Saddam's guards in order that there be no other record of the meeting. We were all well aware that the room was being bugged because there were microphones physically present on the conference tables.

Most of that transcript is propaganda and nicely tailored to fit Saddam's needs. In addition, a second transcript which was read on Baghdad radio differs from the other printed transcript. My critical comments of some members of the press in that part of the world were that some were "haughty, pampered, cynical and with many of them trying to win the Pulitzer Prize." That comment was correctly reported and my colleagues have said that also. Yet, none of my colleagues have ever expressed that the entire remaining portion of the transcript was correct as to our full meeting. It had many omissions. The media failed to point out any of the realities of this pure propaganda piece and in many cases they simply believed all of it themselves—"hook, line and sinker"—as they attempted to convince others of its total authenticity. Thus, my passionate scrap with Jack Anderson. In this same vein, I would suggest that the media might spend much more of its time "analyzing" the CNN reports out of Baghdad. After all, the media seems compelled to spend an hour or so analyzing every State of the Union address, and many other major speeches made by the President, delivered in plain English. One might think they would put the crafty ploys and feints used by our wartime enemy to just as tough a test!

Sincerely,

ALAN K. SIMPSON,
*U.S. Senator, Wyoming.*

Mr. SIMPSON. The delegation delivered a tough, a plenty tough, message to the Iraqi dictator as detailed in our letter to Saddam Hussein, signed by all five members of the delegation, including our colleague, HOWARD METZENBAUM.

I ask unanimous consent that it be printed in the RECORD.

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

Mr. President, we would like to present to you a letter signed by the five of us. We have provided the translator with a copy, and perhaps it would be easier for us to have a discussion with you after the letter has been read. It's very short.

UNITED STATES SENATE DELEGATION,
*April 12, 1990.*

His Excellency SADDAM HUSSEIN,
*President of the Republic of Iraq, Baghdad.*

DEAR MR. PRESIDENT: We appreciate your willingness to receive us during your holy month of Ramadan, particularly on such short notice.

We come to Baghdad, as a bipartisan delegation of the United States Senate, because of our belief that Iraq plays a key role in the Middle East. We would also like to see improved bilateral relations between our nations.

It is clear to us that we can never resolve the serious differences between our nations if we ignore them, or fail to take advantage of opportunities to communicate with each other clearly and candidly. For that reason, we believe it is important that you hear our very deep concerns about certain policies and activities of your Government, which stand as a major barrier to improved relations.

Your nation has just emerged from a long and costly war, which has generated concerns about your own security. But we cannot stress too firmly our conviction that your efforts to develop a nuclear, chemical and biological capability seriously jeopardize—rather than enhance—your security, potentially threaten other nations of the region, and provoke dangerous tensions throughout the Middle East. Your recent statements threatening to use chemical weapons against Israel have created anxiety among nations throughout the world. In your own interest and in the interest of peace in the Middle East, we urge you to reconsider pursuit of these dangerous programs and provocative assertions.

We must also express our profound distress at the alleged activities which led to the expulsion of an official of your diplomatic mission in the United States on charges that he was involved in a conspiracy to murder. We repeat: if our two nations are to have better relations, such activities as those alleged to have occurred must never happen again.

Finally, we urge you to become actively and constructively engaged in the peace process now underway involving Egypt, Israel, representatives of the Palestinian people, and the United States.

Mr. President, we thank you again for receiving us. We look forward to our exchange of views.

Sincerely yours,

JAMES A. MCCLURE.
HOWARD M. METZENBAUM.
BOB DOLE.
ALAN K. SIMPSON.
FRANK H. MURKOWSKI.

Mr. SIMPSON. Mr. President, by the way, there is one more bit of evidence that proves that the handlers of the Clinton-Gore ticket are not doing their homework. Our Senate delegation did not meet with Hussein in Baghdad, as the Senator claimed in his rather tall tale of woe, but in Mosul, some 200 miles from Baghdad.

That is what happened, and the only discussion we had with President George Bush came in a telephone call, which we made from Jordan the night before we went to Baghdad where we landed. Then we were taken by Saddam Hussein's security people to Mosul which as I have said was some 200 miles away.

The only reason we visited with Saddam Hussein was because President Mubarak of Egypt asked, "What are you going to do after you leave here?"

Our leader, BOB DOLE, said that we were going to go see the King of Jordan

and that we would have liked to have seen Saddam Hussein, just for our own information.

President Mubarak said "Let me pick up the phone and call him."

In our presence, he then picked up the phone in our morning meeting. He called Saddam Hussein and said, "I have these Senators here." He was speaking in Arabic and, of course, we had people with us who could translate. President Mubarak said in essence: "No, they are all right. You can see them. They are not bomb throwers. They are here on a mission of peace, and there are five of them."

We sat for another period of time. I do not remember how long it was. Suddenly we were told that on the next day we would fly to Baghdad, which we did. And so the night before we left from Jordan we called the President of the United States to tell him we were going to go to Baghdad and then to Mosul. We said, "Do you have anything to add?" He said, "No. I will be interested in whatever you tell me when you come back." And we read to the President of the United States the actual language of the letter that the five of us had composed, and signed, and which I just placed in the CONGRESSIONAL RECORD a few moments ago.

Now, that is what we did. Really not too sinister, not at all. And that is precisely the reason this Senator from Wyoming came to this floor last night and said exactly what he said. And you may note the RECORD and compare it, if you wish, with the electronic transcription and the reporters transcription. You will see that it does not differ a bit in substance. There was nothing to retract. I have nothing to retract. And so to think that should have to be presented with some semblance of a question of whether I had violated, rule 19.2, when, indeed, the insertion in the CONGRESSIONAL RECORD of what I have just read is obviously, without any question, in the framework of any Parliamentarian, clearly an abuse of that rule.

So it seems to me that these things needed to be said. We really did not go over to comfort Saddam Hussein. That is a disgusting assertion. And if that is not a violation of rule 19.2, which says, "No Senator in debate shall, directly or indirectly"—and I can tell you it may appear indirect, but it is quite direct in that it was placed in the CONGRESSIONAL RECORD by a fellow colleague.

We talked last night about comity and how we should notify each other about such speeches. I can tell you, I had no notification whatsoever that there was to be placed in the CONGRESSIONAL RECORD comments about me made in a speech by Senator GORE. No one gave me the courtesy of a call while they ripped that one through this Chamber in the form of these comments which are now in the CONGRESSIONAL RECORD. I was not given the benefit of a call. Can anyone come forward and tell me why that is or was?

So those are the things I wanted to share with my colleagues. I do not come in here in this Chamber and "run off the rail" and do things that are ugly and mean-spirited. But let me tell you, when somebody dings me in a political year, I will ding them back every time. I can tell you I learned politics in Wyoming, where it is a contact sport.

[Laughter from the gallery.]

Mr. President, I admonish the gallery to please be quiet.

The PRESIDING OFFICER. The Senator from Wyoming will please suspend. The gallery is admonished to make no notification of anything that takes place on the floor.

Mr. SIMPSON. I thank the Chair for that admonition. My father ran for the U.S. Senate in 1940, and in one community in Wyoming they cut the tires on his car and two goons came and beat him up. That was politics in 1940 in Wyoming. He was campaigning along the Union Pacific Railroad, which was not exactly Republican country in those days, although it is a little better now. I even get a few votes down there. When he ran for reelection in 1958 as Governor they did the same. They thought it was a fun thing, a high old time. He lost for Governor. The fellow who was the State Chairman who beat him is a wonderful friend today, a former Congressman. But they used to really whack each other around—and had great respect for each other.

That is what this is all about. I do not mind getting whacked around, but I do not like and I will not tolerate having it be presented to me that somehow I have violated rule 19.2 when it was really violated by a colleague without any notice, any indication, any comment, nothing whatsoever, in the way of notice to this Senator from Wyoming.

We did go to see the Iraqi dictator, and we laid it on him. Read the letter. The public, I guess, could take from Senator GORE'S speech that our delegation was somehow coddling Saddam Hussein. That is not true. We challenged him on his threats to the region. We challenged him on what he had said about Israel. We challenged him on the stability of the region. We urged him to cease the development of biological and chemical and nuclear weapons capabilities, in no uncertain terms. We outlined that his policies and conduct threatened relations between our countries. And we laid it out to him with clarity.

Just one other thing. I want to commend the comments last night that were made by my old friend, Senator PAUL SIMON from Illinois. He is a great conciliator and a great mediator. I have known him for 20 years. What he said was very true. And what he said in essence, as he wound down his comments, was that maybe we ought to stop in these next few hours and short days from placing little bombs in the RECORD and whack on each other from long distance—not here. I commend him.

And finally we have had so many lectures from some on the other side of the aisle in these last years, especially in 1988, during the Presidential campaign. Some of the majority Members practically chopped Senator DAN QUALYE to ribbons in this Chamber. They have also spent a great deal of time chopping to ribbons the President of the United States on every single issue. I could not even compile the list of adjectives that one could find in that vast array of material.

But thanks to Senator PAUL SIMON, maybe we will all listen a little more to each other. But I can tell you this Senator on this aisle has had his fill of Senators from the other side of the aisle coming to this floor with harsh, nasty, cute, clever, invective directed at President George Bush, my friend. I could see the pain of the Senator from Arkansas with his friend Senator AL GORE. It was palpable in the Chamber last night. Real pain, and he felt just like I did, to hear that kind of thing fall and ring around the ears of his friend.

As I have said, in my book of politics, an attack unanswered is an attack believed. If the Senator from Tennessee would like to have a forum where he would like to debate me, he can name the time and the place and the format. It will not be the floor of the Senate. I will be glad to participate on any subject from the Clean Air Act, to Rio, to Baghdad, or even on the road to Morocco without a supporting cast.

So I am ready for that. But I once again want to make it clear that we did not start this process. I did not start this process. It was put in the CONGRESSIONAL RECORD by a colleague, and it became a part of the official proceedings of this Chamber. I find it totally ironic, totally ironic, how several of the Members from the other side feel so defensive when they hear critical remarks about their Vice-Presidential candidate while we have heard an entire eternal flight of a trajectory of invective from that side of the aisle about our Vice Presidential candidate, Senator QUAYLE.

So for the remainder of the session I would offer to my Democrat colleagues this proposal. I would discourage any of the Members on our side of the aisle from placing campaign speeches of President Bush or Vice President QUAYLE in the RECORD. As a matter of reciprocity, I trust that the majority leadership would discourage their Members from placing Governor Clinton's or Senator GORE'S campaign speeches in the RECORD, especially if they refer to colleagues in a derogatory

manner, which in my mind is totally in violation of Senate Rule 19.2. And then maybe such responses as I was making last night—and which I am very pleased I was able to conclude today—will not be necessary. And particularly when they are responding, as I am, to a speech like Senator GORE's that impugned the character and motives of four current Members of this body.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from Nebraska [Mr. KERREY].

Mr. KERREY. Mr. President, may I inquire, are we in morning business?

The PRESIDING OFFICER. The Senate is in the process of postcloture debate on the motion to proceed.

Mr. KERREY. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for 15 minutes.

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

## THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. KERREY. Mr. President, we have had two votes today, cloture votes, on motions to proceed to two very important pieces of legislation. One of them was the crime bill about which there has been much contention. Unfortunately there is a great deal of unity that did not appear during the debate, and regrettably that bill is not signed and moved on to the President. It is much needed.

There is a great, I think, sense of frustration in this body about not being able to accomplish the tasks of enacting that crime bill. I share that frustration.

Similarly we attempted to pass and move on to the President after conference the Neighborhood Schools Improvement Act. That motion to proceed also failed, and thus we will not enact legislation trying to help neighborhood schools.

I come to the floor to discuss part of the process, and I think part of the problem as well. I understand that I have, like lots of other folks, not had the opportunity to participate in these conferences. Very often we are being asked to trust the product coming back to us in the same shape as it went over. Regrettably that is not the case sometimes.

I have come to talk about the Neighborhood Schools Improvement Act, but even with the crime bill the alterations made in the bill in the conference is sometimes made in the moment that we have to get agreement with the trust and hope when they bring it back that we support it as it was when it went over, and that we will support those changes. I am not sure that is the case in this particular crime bill. Changes were made that I heard reference to that, if they were true, might have caused me to vote against the bill, which I would have regretted.

With the School Improvement Act we have a very worthwhile objective, very important objective. In light of the changes in world economy and all the rest of the changes we have observed, the importance to try to make our schools work in America has never been greater.

Yesterday the distinguished Senators from Georgia and New Mexico, Mr. NUNN and Mr. DOMENICI, were a part of a national commission that recommended action on the death penalty. They also hinted they are going to come back with recommendations on education.

We spend about $181 billion a year on public schools in America. We are converting about $181 billion from the personal income to fund about approximately 100,000 school buildings in 16,000 schools districts, about 41 million school children, with about 2.5 million teachers who are in business, in operation, for about 180 days a year on average for most school districts.

The business of those schools is to try to provide an education for those young people so that they, over the course of their lives, will be able to be productive as well as being good citizens.

Most of us have observed that a great deal of progress needs to be made. We are struggling. What S. 2, the Neighborhood School Improvement Act, attempted to do was provide an environment where the Federal Government could become a part of the local school as they struggled with the need to reform.

I believe there are many positive aspects of the bill, and for national standards to be in place is extremely important. Development of tough national education standards is an imperative for America if we are going to have some measure to evaluate at the local level how good of a job we are doing compared with other schools in the United States, as well as others in the world.

I do not like the idea of some kind of a Federal test, but that is just because I am a bit skeptical as well about the idea of any kind of a standardized test, such as SAT or some new Federal test that might get the job done. But it is critical for us to move forward with the standards, and I believe that the committee and the conference report reflected that need.

The committee also attempted to deal with the urgent requirement to provide regulatory flexibility at the local level. All of us have talked with local schools. They are faced with a pile of regulation.

We have come to the floor talking about the need to deregulate business. We just had a big argument about the cable industry, whether or not to regulate. There is no area of our life that is more regulated than our schools.

The legislation created a 10-State project to assist and to assess the impact of relaxing Federal regulations in 16 programs, serving disadvantaged students, to provide us with the road map on how we can lessen the regulatory burden we impose on our schools. In almost every single aspect we set out objectives of what we want our schools to accomplish, and then we set in motion laws followed by regulation and rules to try to carry out those objectives. I observe that we have put handcuffs on the schools at the local level in an attempt to reform.

The committee addressed that and provided, I think, an opportunity to evaluate those regulations and provide flexibility at the local level.

I have some concerns about the way this bill came back out of conference. I had hoped to be able to come to the floor and enthusiastically support it. I regret we did not have the opportunity to vote and debate on it. I am here to express those concerns not just for the purpose of filling up time, but for the purpose of informing the authorizing committee that next year when we come back to this matter, hopefully, in my judgment, with a new President, the authorizing committee needs to understand that there are people, other folks that are not on that committee that have a powerful concern about providing the opportunity for reform at the local level.

Regrettably, the bill as it came back had a formula program again that guaranteed every State a certain amount of money. I would say if we are going to take this approach it would be better to ask the States to equalize financing in return for receiving the Federal reform funds, but to merely provide in some form or fashion every single State with some money I think risks advancing the very reform that we seek to achieve.

Second, I observe, and comment on what was said on the other side of the aisle—and there was a great deal of truth to what they were saying—the legislation in the end reinforced the bureaucratic approach. Under this legislation as it came back from conference, States would develop a State committee. Unfortunately, for all practical purposes it would be run by State Departments of Education. In some cases that is fine. But in others it may not be.

Unfortunately, the bill did not give us a mechanism to allow us to give those State agencies, that were advocates of reform, even those that might produce, a structure in their own organization from those who are just talking about the reform, but want to make sure that they have the opportunity to define the reforms so as to protect the status quo.

Then local school districts would go through a similar process—a commit-

tee, developing a local plan, and then the schools within the district would submit proposals for school reforms to the local committee for approval.

This approach does not challenge the current structure that has acted as a tremendous drag on real reform. This legislation will allow the current structure, Mr. President, to define the reform and therefore I doubt that it will indeed spur real reform.

Mr. President, this approach reinforces the top-down effort to reform itself. Local entities, by this legislation, would be required to have a reform plan that is consistent with State plans, and while this seems reasonable, they would have to have something again consistent with the State plans. I am concerned that we will be telling local districts and schools that these are the true reforms of reform. In other words, the State education agency would be putting the word out. If you are going to reform, here is to how we would like you to reform. We approve of this kind of reform, but if you come up with some other kind of reform, some other desired way to get the job done, then you may find yourself being turned down.

Beyond that, this legislation, while outlining the worthy goals of helping disadvantaged Americans, ends up in my judgment micromanaging the reform process at the local level. Let me give you some examples.

The local committee may decide to involve a parent, God forbid. It is required by the legislation that the parent be a parent of a disabled child, low-income child, or a child with limited English proficiency. All of that is desirable, but what we are saying is that if you are a parent of a child who is not disabled, not a low-income child, who is a child that does not have limited English proficiency, then you may not have the opportunity to become involved.

It seems to me, again, that we are micromanaging from Washington, DC, the reform process. Certainly, we can establish standards that prevent the local schools from acts of discrimination, and we can make certain that the civil rights laws of the United States are going to be applied in our school boards, but with our own legislation, to write that kind of detail, Mr. President, I think again runs counter to the desire to encourage community-based reform in America.

The local plan developed by the local committee is required as well to meet a number of criteria including reflect cultural awareness and multicultural awareness; encourage alternative learning styles; promote gender equity in class.

These are worthy goals, Mr. President. I do not take away from the fact that the Member of the House, or whoever it was in the conference committee, established worthy goals, but unless we want to change in a radical fashion and have all of education in America being run out of Washington, we should establish instead broad, general, and tough standards for civil rights in this country, and then allow the people at the local level to develop their own curriculum and efforts of reform.

Some specific areas of concern, Mr. President. As written, the legislation does not seem to allow small rural school districts to form consortiums to apply jointly for school reform funds. Many rural school districts do not have the resources to apply for grants as the bill is currently written.

In addition, Mr. President, there is a very controversial issue that all of us get asked about when we are filling out questionnaires and are running for office which is: Do you support school vouchers or school choice? It has become a very important part of the political debate.

I, myself, think that vouchers mandated particularly out of Washington, DC, are dangerous. I have seen the school choice work and not work. But there is an idea today in America that has a considerable amount of merit, and I support it strongly and this bill, as it went over to the House, would have allowed it, and in conference that was taken out, and it gives those of us who want to see school reform occur, want to see competition, want to see flexibility, want to see innovation, but are concerned about the dangerous aspect of vouchers, and allows those of us who feel that way, to have that policy worked out in a charter school concept.

The Senate version specifically mentions charter schools as one of the models to be considered by States and localities, but unfortunately, that provision was removed. To me, Mr. President, that is a crucial error on the part of the conferees. For those of my colleagues who do not understand the charter school concept, they are public schools. The public school board charters with the direct contract with sometimes private sector operators, sometimes private schools, but other entities to carry out some function that the public school itself is struggling to get done, particularly in the area of dropouts and children who are struggling to learn in the school; these charter schools provide a smaller scale innovative opportunity for public schools to be able to get the job done.

I support them. I understand there are opponents of it. There is a hearing and thinking that this is somehow the proverbial nose under the tent regarding vouchers. I think they are quite the opposite. They reinforce the desire to have strong public schools, but I recognize that there are times those institutions need to contract outside to get the job done.

Perhaps a better example of the desire to provide State flexibility in our language—but when it becomes time to act, we do just the opposite—no better example can we find than in a little provision added at the end of this bill called a buy American provision. I am for buying American, Mr. President. Who in this Chamber is not for buying American? Who in this Chamber does not think we should not go out and buy American products and make sure Americans have the opportunity to have jobs here at home?

But, Mr. President, at the same time, we are taking a step forward in addressing the increasing paperwork and lack or regulatory flexibility. We attack this tiny provision, expressing the sense of the Congress that entities that receive assistance should be notified by the Secretary of Education, by the Federal Government, that it is the sense of the Congress that they buy American when using these funds.

Mr. President, we are adding regulation. We are not just achieving some popular notion that says we are all for buy American. We are insisting that 16,000 local school districts, local school entities, before they receive money to restructure their schools, that they have to certify in some unstated fashion at this point that they are going to buy American when they use these funds.

Mr. President, I believe when it comes to education, we are going to have an active debate next year. I believe we are going to have a President in Bill Clinton who has been involved in education in the State of Arkansas.

I believe we are going to have a President in Bill Clinton who is passionately concerned about education. He understands the need for local control. He understands the need for a Federal partner that will reinforce parents and community leaders and business leaders that are trying to improve the quality of education in America today.

I believe that the Congress of the United States will have the opportunity to hear in the first inaugural address from President Clinton a challenge to participate in providing local communities the opportunity to restructure and reform their schools so as to be able to produce graduates, Mr. President, that will have the skills, the enthusiasm, and the ability to earn a living over the course of their lives and to be good citizens of this country.

I hope that when the Congress responds to an action-oriented President in President Clinton, they will not fall into the trap of saying that we know best. If we want reform at the local level, then we have to let that reform happen. Unfortunately, Mr. President, I feel like the conference bill, as it came back, did not trust democracy from below.

I yield the floor.

Mr. BYRD addressed the Chair.

Mr. WIRTH. Will the Senator yield to the Senator from Colorado?

Mr. BYRD. Mr. President, may I ask the Senator how long he would like?

Mr. WIRTH. Five minutes maximum. I shall not use all of that time.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Colorado for 5 minutes, without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## RULES OF THE SENATE

Mr. WIRTH. Mr. President, I was pleased that I was here earlier to hear the remarks of the distinguished Senator from Wyoming. I have enormous respect for the distinguished Senator. He and I have worked together on so many, many issues, as we all have. And you cannot help but enjoy working with ALAN SIMPSON, whether one agrees or disagrees. We have worked on baseball, and population, and fishing, and on issues dear to our particular area of the West.

So I wanted to address in particular Senator SIMPSON'S citing of rule 19.2, which says:

> No Senator in debate shall, directly or indirectly, by any form of words, impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

I want to tell my colleagues that it was not in any way, shape, or form my intention to do so related to the distinguished Senator from Wyoming or to any other Member of this institution.

I placed in the RECORD the speech that was given by Senator GORE, the speech of some discussion, in which there is a paragraph related to what happened in April in Iraq. It was a recitation of that history that Senator GORE had included here, a recitation of that history which as I read it and know of that section and have now reviewed all of the documents—and I think I can say very clearly on behalf of Senator GORE, it is not intended in any way, shape, or form to impugn the integrity or motive whatever of any Member of that Senate delegation.

Rather, I think we are talking about a difference in policy, a difference in what happened at this meeting. The meeting was reported by the Iraqi service. It was later confirmed in press reports, and later confirmed by our State Department, what had happened there.

And repeatedly in the transcript are references to the fact that the Senate delegation had recently talked to President Bush, and I think reading that, as I look back at this, valuing as I do the concerns of the Senator from Wyoming, looking at this one could read it very much in that fashion that in fact they are registering and were reflecting the President's concerns.

So I appreciate the Senator from West Virginia yielding me this time. I have reread these documents again and I know I can say on behalf of Senator GORE that he had no intention at all in what he included in here of suggesting anything related to impute the conduct or anything else related to the distinguished Senator from Wyoming or anyone else.

We have a policy difference and perhaps some difference in interpretation as to what happened, and rather than put all these documents in the RECORD, I am going to ask my staff to sit down with the staff of the distinguished Senator from Wyoming and look at the documents and make sure that we all understand, and Senator SIMPSON and I can understand where any difference of opinion might have come about reading those documents. Those documents were the basis of Senator GORE's speech. I have recently reviewed them. I think I understand how those conclusions were reached. Clearly, it may be up for other interpretation and I think we ought to look at that and make sure we understand it.

I want at this point to just publicly say to the distinguished Senator if he felt that I was in any way, shape, or form impugning any of his motives, or whatever it may be, that is the furthest from my mind. I deeply apologize for that. I would never do anything like that, as the Senator knows, and I would then leave it open from there and maybe we can have our two staffs take a look at this and we together can take a look at just the exact paragraph that is at issue in that speech and make sure we understand from the documents where that paragraph came from and I think we are talking about differences in interpretation of history and nothing more than that.

The PRESIDING OFFICER (Mr. DODD). The President pro tempore has the floor.

Mr. SIMPSON. May I inquire of the senior Senator from West Virginia if I may have 2 minutes to respond to my friend from Colorado?

Mr. BYRD. Mr. President, I gladly yield 2 minutes to the distinguished Senator from Wyoming with the understanding that I not lose my right to the floor.

The PRESIDING OFFICER. Without objection, the President pro tempore retains the floor.

The Senator from Wyoming is recognized for 2 minutes.

Mr. SIMPSON. Mr. President, I greatly appreciate the remarks of my friend the Senator from Colorado. He came over to communicate this to me during this debate. I know him well. We have enjoyed each other's company greatly. He and I and our spouses are friends.

He left out one other thing we worked on, and that was that we were trying to bring some Cossacks over here and trade them for a bunch of cowboys to go there—and all have a rodeo in Cheyenne. We did not get that done or one in the Caucasus. That will come at another time.

I do greatly appreciate his comments today. I was offended by the comments of Senator GORE made on September 29th when I read them in the CONGRESSIONAL RECORD. I was not offended at all that they were presented during the course of his recent speech at the Hyatt in Washington. That is fair game. I understand that one. But the word "comforting" to Hussein—as appeared in the CONGRESSIONAL RECORD was not at all comforting to me.

I deeply understand what the Senator is saying. I appreciate it. It takes a great and generous person to do what he has just done, and I accept it as a friend. Perhaps we can restrain ourselves on both sides in these next hours before we get out of town. Then we can really go whack on each other with gusto outside of this Chamber.

Thank you very much.

Mr. WIRTH. I thank the distinguished Senator and the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed out of order for 15 minutes.

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is recognized out of order for up to 15 minutes.

Mr. BYRD. Mr. President, I thank the Chair.

## RIDDICK'S SENATE PROCEDURE

Mr. BYRD. Mr. President, I call to the attention of Senators the publication titled "Riddick's Senate Procedure." This is a newly published book on Senate procedure. It contains 1,564 pages, including the appendix but not the index. And its predecessor contained 1,289 pages. In other words, this volume contains almost 300 pages more than its predecessor volume.

I call attention to this new book, because I think it warrants the attention of the public and particularly the attention of my colleagues.

I read now from my own book, volume 2 of the Senate, 1789–1989, page 45, chapter 3 titled "Rules."

Mr. President, someone has said that the difference between a lynching and a fair trial is procedure.

In his Manual of Parliamentary Practice, Thomas Jefferson quoted "Mr. Onslow, the ablest among the Speakers of the House of Commons" as follows:

> It was a maxim he had often heard when he was a young man, from old and experienced Members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power.

Jefferson himself wrote that whether the rules of a legislative body

* * * be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body.

And then I go on to say as follows:

All legislative bodies need rules to follow if they are to transact business in an orderly fashion and if they are to operate fairly, efficiently, and expeditiously.

So the rules are exceedingly important. They are very basic, and the rules of the Senate have been developed over a period of more than two centuries, and in my volume on the Senate, 1789–1989, I trace the development of the rules from the very beginning of the Senate in 1789 to the date of the publication of my own volume in 1989.

I point out in my history of the Senate that the rules of the Senate by which we operate today, in many ways, are almost the same, if not the same, as the rules which were adopted in 1789, and that, in some respects, the rules of today even have their roots in the Continental Congress that first met in 1774 and, even beyond that, reaching across the great Atlantic Ocean to the House of Commons in England.

When I first came to the Senate, the Southern Senators, in particular, were very conversant with the rules of the Senate.

The late Senator Richard Russell, of Georgia, was at that time acclaimed to be the expert, insofar as Senators were concerned, on the Senate rules. At that time, the Parliamentarian was named Watkins when I first came here.

I was talking with Senator Russell one day, and I commented on his purported knowledge of the rules. I had not been here a long time, but I had heard it said that he was the master of the rules, if there can be such, if there can be a master of the rules.

He indicated to me that the rules were very important, but, he said, as much so or more important are the precedents of the Senate. The precedents are much like the old common law of England. The common law was built upon precedents.

Now the book on Senate procedure contains the precedents of the Senate.

The rules of the Senate are not—this little volume is not very voluminous, as those who are listening and watching can well see. I hold in hand a booklet titled "Standing Rules of the Senate".

Now, the copy of the Standing Rules of the Senate, which I hold in my hand, consists of 59 pages. There is a considerable amount of material in this pamphlet that really should be stricken from it because it is of no use in our daily work here. It has to do with appointments to committees and so on and so on.

For example, reading from page 35.

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

And it goes on for several paragraphs of that nature. I have thought about asking the leadership and others if we might find a way to delete those sections from this booklet so that Senators who really want to look at the rules of the Senate will not be intimidated by a grouping of paragraphs that, for all intents and purposes, serve no purpose.

Now, this is the book on procedure. This book contains the precedents as brought up to date by Dr. Riddick and our parliamentarian, Alan Frumin.

For more than one-third of a century, I have been privileged to call Dr. Floyd Riddick my teacher and friend. Dr. Riddick has participated in, and observed, the operations of the U.S. Senate for more than 50 years. No other staff member or independent scholar of the Senate's 200-year history has possessed his mastery of the institution's precedents and practices.

Among the many distinctions of Dr. Riddick's remarkable career, two major contributions are worthy of special note. He is the second person to have served as the Senate's official Parliamentarian, and he is the principal author, as I have already indicated, of this indispensable volume.

While conducting research for his Duke University doctoral dissertation in the late 1930's, he spent a year observing the workings of the U.S. House of Representatives. In 1941, he published that dissertation in a book entitled "Congressional Procedure."

In the decades to follow, Dr. Riddick would publish other works that have become classics in the field of legislative operations and procedure.

In 1947, he was invited to establish a new section for the CONGRESSIONAL RECORD to summarize floor activities and other events titled the "Daily Digest." It is a very useful compartment of the daily CONGRESSIONAL RECORD.

Dr. Riddick joined the Office of Senate Parliamentarian in 1951 and remained there for 24 richly productive years. From 1964 until 1974, he held the post of Senate Parliamentarian, and since that time he has faithfully served the Senate as its Parliamentarian Emeritus.

In speeches of tribute at the time of Dr. Riddick's 1974 retirement, Senators called him "the Senate's truly indispensable man," and noted that "without his daily wisdom and guidance and constant reassurance," the Senate would not have functioned as effectively as a legislative body. The Parliamentarian's office, they suggested, might have seemed quiet, but it was "the quiet at the center of the storm." Seated at the lower dais in the Senate Chamber, immediately before the Presiding Officer, Dr. Riddick was always at the center of every major Senate debate.

In the book on Senate Procedure, this unique scholar preserves and shares his many decades of experience with the parliamentary precedents and procedures of the U.S. Senate.

Without the talent and the dedication of Senate Parliamentarian Alan Frumin, this edition of Riddick's Senate procedure would not exist. Mr. Frumin received his undergraduate education at Colgate University and holds a juris doctor degree from Georgetown University. Before coming to the Senate in 1977 as Third Assistant Parliamentarian, he worked for the House of Representatives as an editor for "Deschler's Precedents."

By January 1981, Mr. Frumin had advanced to the rank of First Assistant Parliamentarian, and since January 1987 he has served as Parliamentarian of the Senate.

Although previous Parliamentarians had enjoyed long office apprenticeships before assuming floor duties, Mr. Frumin accepted these responsibilities within his first year at the Senate. He was often the Parliamentarian on duty during a most difficult and contentious filibuster in the fall of 1977, barely 9 months after he first came to the Senate.

I can remember that contentious filibuster, the most contentious filibuster that I have ever witnessed. And in that instance, I was at the center of the storm, not Dr. Riddick.

Senators who are still in the Senate who were here at that time will very well remember the filibuster on the natural gas legislation. That filibuster was very ably led by Senator METZENBAUM, and former Senator Abourezk, two very good-natured Senators. They tied this Senate in knots for days—days—as I remember, 13 days of it and 1 night. And they would have gone on and on—they probably would be filibustering yet—if a couple of things had not happened—the passage of time, of course, and events.

Having asked the Vice President of the United States, Mr. Walter Mondale, to take the Chair, I made certain points of order which were upheld by the Chair. This broke the back of the filibuster, and it was over within a couple of hours.

But, while the filibuster's back was broken, I came very near having my head, or neck, I thought, at least figuratively speaking, broken. That was truly an electrifying event here when I, as the leader of my own party in the

Senate, was in great contention with members of my own party on this side because I was trying to break the filibuster. Even though I, on the substance of the matter, sided with the filibusters, I felt it was my duty to break it.

Anyhow, Alan Frumin was here at that time. And he was getting his apprenticeship, if I might use that term, while I was taking quite a bit of flak from my own colleagues on this side of the aisle.

In 1981, in conjunction with personnel from the Senate Computer Center, Mr. Frumin designed the Senate's Rules and Precedents computer data base. In order to maintain that data base he was given full responsibility for compiling, analyzing and writing the current Precedents of the Senate. These precedents have now been incorporated by Mr. Frumin, with Dr. Riddick's assistance, into this edition of Senate Procedure. These new precedents, together with amendments to the Standing Rules of the Senate, pertinent statutory provisions and revised explanatory material, comprise "Riddick's Senate Procedure."

Together, the careers of Dr. Riddick and Mr. Frumin span more than four decades of service to the Senate. Their collaboration on this volume is a testimony to the continuity of the Senate's rules, precedents and practices and the dedication of the Senators and career staff to preserving the traditions of the United States Senate.

Mr. President, I will say just a few further words concerning the importance of this newly published volume.

Dr. Riddick and Mr. Frumin have not only put hours into the production of this volume; they have put in years of their lives, good years of their lives; years of toil, the searching of precedents methodically, systematically and meticulously. And they have compiled these precedents for the benefit of Senators and for the benefit of the Senate. And Senators ought to read this volume.

I would not say it would compete with the works of Herodotus or Thucydides or Xenophon or Polybius or Eutropius or Tacitus or Procopius or Zosimus or Cassius Dio Cocceianus, or Gibbon, or Plutarch, or Suetonius, or others of the ancient historians. But it is exceedingly important that Senators be at least somewhat conversant with the precedents of the Senate.

We owe it to the parliamentarians who spent much of their lives in compiling it. More than that, we owe it to the Senate of the United States.

Majorian, when he became Emperor of the West in the year 457 AD, referred to himself as, "a prince who still glories in the name of Senator."

Augustus reigned from 27 BC to 14 AD, as the first emperor. His name originally was Gaius Octavius and he took the name of Gaius Julius Caesar Octavianus when he was adopted by his uncle Julius Caesar. He was given the title Augustus—meaning "exalted," "sacred"—in 27 B.C. by the Roman Senate. He always maintained that the title of which he was most proud was that of Princeps Senatus, the Prince of the Senate.

I do not expect every Senator, or any Senator, for that matter, to adopt my views with respect to things. But I think that most Members would have given an arm to become a United States Senator. And many of them have given a great deal to become a United States Senator. And, as did Majorian; they ought to glory in the name of Senator.

There have only been 1800 United States Senators since the Senate first met in 1789. It is quite an august institution. And Senators ought, with humility to, take pride in having been selected by their constituents to be a Member of "the Senate."

One hundred Members, like the first Roman Senate, which legend tells us that Romulus created when he established Rome, in 753 B.C. That date may be somewhat in question. But generally speaking, I think it is accepted.

There were 100 Senators in that Roman Senate. The greatest Senate, in my judgment, of all the Senates of the world, from the very beginning of legislative bodies, is the American Senate. There were 96 Senators here when I first came to this body; today there are 100, as we all know.

I sometimes wonder if all Senators really understand the meaning of "Senator," and have an understanding of this institution.

There is not much by way of headlines in the reading of this book. But a Senator who knows the rules of the Senate fairly well, and the precedents, and is pretty sure-footed, can at critical times hold the Senate in this hand—in his hand, so to speak. And procedure determines whether or not the substance of legislation becomes law.

The rules govern debate. The debate governs the legislation. The legislation then, in being enacted into law, impacts upon the country.

Mr. President, I know there are those in the fourth estate, and some in the Senate itself, perhaps, and otherwise, who do not think much of Senate procedure. Who would want to tie himself down and waste his time on that dull reading?

Well, if one likes mathematics, he will probably like Senate procedure. Because it will tax one's thinking processes. But one owes it to himself, if he is going to carry the title of Senator, to develop an institutional memory, and his pride in this institution will then grow.

Without procedure, there would not be laws enacted by a Representative body.

Our colleagues should always keep in mind, that they are being watched by the people inside and on the outside. The Senator who sits in that chair should never sign letters or read newspapers or books while presiding. He should do that in his office or somewhere else other than in that chair. The camera is on that chair much of the time. Watching that chair are students, professors, lawyers, judges, Parliamentarians, members of State legislatures, city councils—people from all over the world see that chair, and they ought to see the best. When the public observes the United States Senate, they ought to see the best.

I have been a member of State legislative bodies in the House and Senate of West Virginia, so I can talk somewhat freely and knowledgeably about State legislatures. That is where I started. Many State legislators start there and some never get beyond there, and they render a great service to the people of their respective States in those legislative bodies. But they do watch the United States Senate. I have seen some very capable members of the State legislature of West Virginia. I served in the State legislature of West Virginia with two former United States Senators when I was in the House of Delegates there, the late Rush D. Holt and another Senator by the name of Rosier.

But that chair is being watched and Senators are being watched as they speak on this floor, and other Senators watch Senators. A Senator who comes here and is newly sworn can be forgiven. It can be expected that he would perhaps not comport himself as Senators are required to do by the rules. But Senators who have been here any considerable length of time should learn a number of simple things. One is, a Senator should not address another Senator in the second person. I hear that so much of the time here, and I am troubled by it. There is a purpose and a reason back of that rule that requires addressing other Senators through the Chair and in the third person. It lowers the acridity of debate. It makes it impersonal. And it keeps the decibel a little less than sharp or shrill. It contributes to decorousness in debate. Senators ought to strive to comport with that rule. To say "you" in addressing another Senator is like pointing one's finger at another person. It becomes personal.

A few other small items I will mention, but they are important. Senators should learn that there is no such motion as, "Mr. President, I move the adoption of the resolution;" "Mr. President, I move the adoption of the amendment." When one moves, he makes a motion, and formal Senate procedure, Senate rules do not recognize such a motion.

The Senator does not have to say, "Mr. President, I move the adoption of the amendment;" "I move the adoption of the resolution;" "I move the adop-

tion of the bill." Any Senator who knows the rules knows that that Senator does not know the rules. There is no such motion. And yet practically all Senators fall into this habit. I suppose it gets to be a habit like the inane senseless expression "you know;" "you know."

Now why is it not necessary to say, "Mr. President, I move the adoption?" In the U.S. Senate, when all debate ceases and no Senator seeks recognition, the Chair will automatically put the question. And if Senators will note that when they say, "I move the adoption of the amendment," the Chair never says, "You have heard the motion by the Senator from West Virginia." The Chair always says, "Is there further debate?" Which is to say, the Chair pays no attention to that pseudo motion. The Chair carries out the rules. If Senators will just sit down, if there is a question pending before the Senate, the Chair will state it when nobody seeks recognition.

Another small item I have noticed is, when Senators send amendments to the desk, they most always say, "I send an amendment to the desk, and I ask for its immediate consideration." Senators do not need to do that. All they need do is say, "I send an amendment to the desk," and the Chair will take over from there. That amendment goes to the desk, if no other amendment is pending, and the Chair will say, "The clerk will state the amendment."

Many times staffs will hand me a piece of paper, when I am going to send an amendment to the desk. They will write on the piece of paper for me, "Mr. President, I send an amendment to the desk and I ask for its immediate consideration." And I say to the staff, you do not need all that verbiage. The Chair will take over from there and will forthwith tell the clerk to state the amendment.

Now if there is a pending amendment, and it needs to be set aside, that is a different matter. One would send his amendment to the desk and ask unanimous consent that the pending amendment be set aside temporarily, but so much for that.

Those are just little things. But the "little foxes spoil the vine," we are told in the Book of Proverbs. These are little foxes I am addressing.

So, Mr. President, I thought that, on this Friday afternoon when the Senate seems not to be in a great rush to transact business, I would call attention to the new book, "Riddick's Senate Procedure," and reference its importance to the body and urge my colleagues to read it. If it is the good Lord's will to let me live, I plan to read this book, along with some additional volumes on the history of England and Roman history and perhaps something by Epictetus and Heraclitus and other philosophers. Just a few readings I have in mind during the break. I intend to be the first Senator to read this book from beginning to end.

Let me close these random remarks by calling attention, again, to the Senate, 1789 to 1989, page 57, where I write as follows:

Mr. President, during my twenty-two years of service in various leadership posts in the Senate—secretary of the Democratic conference, majority whip, majority leader, minority leader, again majority leader, and now president pro tempore—I have had the opportunity to become familiar with this body's rules and many of its precedents. As I have noted on other occasions, to know the rules and precedents is to know the Senate and its infinite capacity for flexibility in serving as a forum for reasoned deliberation and constructive action. To study the development of the Senate's rules over the past two hundred years is, indeed, to study the very history and institutional fiber of the Senate. The Senate's rules are milestones by which we can measure its struggle to meet the needs of a growing nation. With the passage of time, outmoded rules have fallen by the wayside, while those that have effectively promoted the Senate's business have survived in their original or modified form.

My experience with the Senate's rules compels me to appreciate the wisdom that Vice President Adlai Stevenson expressed in his farewell address to the Senate on March 3, 1897. I believe his observation is as fitting today as it was at the end of the nineteenth century.

Before reading his observation, let me also hasten to mention a word of thanks to the Secretary of the Senate, Mr. Joe Stewart, for his having worked with the Parliamentarians, at my request—I was the majority leader at that time—to press forward on this magisterial work on Senate procedure.

I also would be remiss if I did not express a word of gratitude to Mrs. Riddick and to Mrs. Frumin, because, while their husbands were detained many hours into the evenings over the years in the development of this volume of precedents, they, the wives of these two gentlemen had to be very patient, understanding, and supportive. Too often we forget the sacrifices that our spouses make while we labor in the vineyard of the peoples' business.

So I thank them, too. And I thank our two leaders for their strong support of the effort by the two authors of this volume.

Now, Vice President Adlai Stevenson spoke as follows:

It must not be forgotten that the rules governing this body are founded deep in human experience; that they are the result of centuries of tireless effort in legislative hall, to conserve, to render stable and secure, the rights and liberties which have been achieved by conflict. By its rules the Senate wisely fixes the limits to its own power. Of those who clamor against the Senate, and its methods of procedure, it may be truly said: "They know not what they do." In this Chamber alone are preserved, without restraint, two essentials of wise legislation and of good government—the right of amendment and of debate.

Parenthetically, let me state that therein for the most part, not entirely but for the most part, lies the uniqueness of this legislative body, the greatest Senate in the history of the world, the American Senate: The ability to amend and, more particularly, to debate at length.

Great evils often result from hasty legislation; rarely from the delay which follows full discussion and deliberation. In my humble judgment, the historic Senate—preserving the unrestricted right of amendment and of debate, maintaining intact the time-honored parliamentary methods and amenities which unfailingly secure action after deliberation—possesses in our scheme of government a value which can not be measured by words.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I first say to my very good friend, the distinguished senior Senator from West Virginia, I always greatly appreciate his efforts to educate people like the Senator from New Mexico. I thank him for that.

I remember 20 years ago, when I came here, one of the ideas was to have Dr. Riddick teach us, and we had then organized some classes so we would learn the rules. I must say the Senator's assessment of what most did is right. Most said this is not very important. But it took a while, and I must admit, at least for this Senator, I found out, although not the hard way, it was imperative that the rules, basic rules be understood.

I might suggest—just to put my little bit in this record—this Senator came here direct from a mayorship of the city of Albuquerque, so I was never a legislator in the sense of State legislatures and obviously had never been in the House of Representatives.

Legislating in a city is much different, especially when you are mayor presiding over the ordinance drafting, which is legislative. But essentially I would like to say that until this Senator felt comfortable with the rules, I really never did a good job in this Chamber with the things I wanted to do for my State or for the country because you never quite feel relaxed. You always have to inquire of someone, and you are constantly—if you are normal, your nature makes you kind of timid and apprehensive, and when you see somebody come to the floor that you know knows the rules and you are in the middle of some kind of very difficult discussion and debate, you know they can do something. It is a lot better to know what they can do than to be on the floor arguing and wondering. You can anticipate, if you are as good as Senator BYRD, what they can do under all circumstances.

But, clearly, what the Senator has said here is not a lesson only for those Senators who think they know the rules but for everybody in this body. Clearly, we are at that time when a number of new Senators are going to

come in, and maybe it would serve them well just to take this very simple little lesson today and just a few basics and get started down that path.

While the new volume on "Precedents of the Senate" was talked about today, I just want to lend my statement of real admiration for Dr. Riddick. When I first came, he was already beginning to be less than fully active. That is how experienced he is. But everyone knew that if we had a tough one, we would clearly, in either a partisan or bipartisan way, get him in the cloakroom or somewhere and talk to him about the issues, as I remember, about what could and could not be done.

We have a lot of such help now, but I am sure there is no one around quite like him. And while I do not want to make the commitment that I will read that entire volume—I am one who has a great deal of difficulty reading that kind of history, so to speak—the Senator's suggestions did not fall on totally unfertile ground, and I will try my best to see what I can make of it.

THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. DOMENICI Mr. President, I cannot state strongly enough my objections to the education bill we have before us today. I truly wish I could have stood before you today to say otherwise.

I think it is fair to say that all of us in the Senate are in favor of education. Further, I think all of us are in favor of educational reform. Frankly, it is because I am in favor of education and meaningful education reform that I will express my opposition to this bill by voting against invoking cloture.

The language we have before us is not the kind of reform we are looking for. The heavily partisan report shows a complete and utter disregard for the reforms proposed by the President's America 2000 initiative—many of which were contained in the Senate version of the bill. The report is not innovative, it is simply more of the same old thing. A lot more of the same old thing: More Federal spending, more Federal interference, and more bureaucracy.

When we passed S. 2 back in January, I was one of the 92 Senators who voted in favor of the bill. S. 2 was not a perfect bill—far from it. Yet, it was a good compromise, and a good start at implementing reform. I was pleased with many provisions in the bill, and was hoping that the House would take the initiative to improve upon the foundation we had put into place.

I do not need to tell you what happened. The House of Representatives presented us with a partisan bill that did nothing to implement meaningful reforms. It was basically just another block grant program with lots of strings tied to the Federal bureaucrats. I strongly disagreed with the language in the House bill, and on September 15 the Senate overwhelmingly approved the motion to disagree with the House version of the legislation and send the bill to conference.

Frankly, Mr. President, I was shocked by the language of the bill we got back from the conference. Not only did we lose many important provisions of the Senate version of the bill, but the conference basically shut out Republicans—who did not even sign the conference report—in order to craft a bill which would force a Presidential veto just before the election. I cannot tell you how disgusted and disappointed I am that the provisions of the President's America 2000 educational initiative—which were included in the Senate version of the bill—have been removed.

First of all, the report makes no mention of New American Schools provision. New American schools are meant to be the first wave of a new generation of break the mold schools. These schools reflect the best of what is known about teaching, learning, and educational technologies to enable all students to meet world class standards of achievement. The New American Schools Development Corp.—which is not a Republican commission, but a private, nonprofit organization—announced in July the 11 design teams whose ideas will serve as blueprints for reinventing schools.

More than 680 organizations, including seven from New Mexico, submitted plans to the NASDC. Educators are obviously enthusiastic about this program. But now we are telling the President—and the educational community as well—that this idea is not worth considering. Frankly, I find that insulting, as I'm sure do the 11 design teams from all across the country.

The report also rejects the President's proposal regarding school choice. While the bill that passed in the Senate contained provisions allowing for only public school choice—language, in my view, that was not broad enough—the conference report contains no school choice provision at all. Even the minimal change contained in S. 2 was considered too much of a reform. We are once again left holding the bag reading "status quo."

Mr. President, why are we so determined to stand still? Last year, the Appropriations Committee allocated $100 million for fiscal year 1992 for America 2000 initiatives, pending enactment of authorizing legislation. Obviously, we will never approach that authorization. Meanwhile, as the conference report telegraphs the message that America 2000 is not sound educational policy, hundreds of communities across our country are already carrying out America 2000 activities—including Las Cruces, NM, which became an America 2000 community in October 1991. Thousands of people—Governors, businessmen, educators, students, parents, and concerned citizens—are working to carry out this reform strategy. And we are telling them in this report that these efforts aren't worth their time. Again, I find that insulting.

Further, the provisons that have been left in place have been altered so as to be virtually unrecognizable. The President has asked us to help ease the regulatory burden we too often have placed upon our local school districts. In the Senate version of S. 2, we approved an amendment proposed by Senator HATFIELD allowing the Secretary of Education to waive statutory or regulatory requirements that may stand in the way of achieving educational gains. In return, grantees would be held absolutely accountable for achieving these gains.

Mr. President, this amendment—a perfectly logical, reasonable provision—was unanimously accepted by the Senate. Look over the conference report now and you will find that this provision exists in name only. In its place is a program to allow the waiver of specific Federal requirements for schools that wish to explore better ways of educating disadvantaged students—but only to those schools with chapter 1 programs. This automatically cuts a number of schools out of the equation, including most high schools. This is an extremely limited scope, and it is obviously inconsistent with the intent of the Senate language and the President's request. This so-called flexibility is nothing but smoke and mirrors.

Even more outrageous is the wrench that has been thrown into the gears of the school improvement block grant. The block grant approved in the Senate bill sent money to State and local neighborhood schools with a few Federal conditions.

What do we find in the conference report, but that this provision has been gutted, and restuffed with new regulations and needless bureaucracy. The conference report, like the House bill, prescribes an enormous bureaucracy. The number of bureaucratic advisory councils and agencies this bill puts into place to bounce and direct the grant money looks like it was designed to be a pinball machine.

Let me make this clear: This bill is a bureaucratic boondoggle. Funding goes directly to bureaucrats long before our children will ever see it. Under the direction of the conference report, in the first year, all $800 million allocated by the bill goes to State educational agencies solely for planning purposes. None of it will go to schools, principals, or teachers.

What happens the second year? Will our teachers and students begin to reap the benefits of this planning phase? Not yet. We've put another level of planning into place at the local level, and 30 percent of the funds are still set aside for administrative costs. By the

time State and local educational agencies finish with planning, the bureaucratic filter ensures that only 68 percent of the State grant will ever reach the schools.

Mr. President, I support improving our educational system, I regularly hear from the teachers, principals, and administrators in New Mexico who tell me they are being strangled by regulation and intimidated by a government that too often wants to peek over their shoulders. I honestly want to give our educators the opportunities they need to do their jobs right, which means doing their jobs effectively, creatively, and efficiently. Bureaucratic chains of command do not allow educators this opportunity, nor does the Federal Government sticking it's nose deep into the affairs of local decisions.

Frankly, I cannot in good conscience vote for a measure that assumes the Government knows better than our teachers, principals, and local school boards about what works in local schools. There is too much evidence to the contrary.

Again, I regret that our attempts at getting a good bill and initiating some positive reforms in our schools has deteriorated to this kind of partisan folly. This bill is not pro-education; it is pro-big government, pro-redtape, pro-regulation, and pro-nonsense. We put a foot forward with the Senate version of the bill, only to find we have stepped into a hole with the conference report.

I did not have a chance because of time limitations and other things that I had to do to talk about why I did not vote in support of Senate bill 2, the so-called Neighborhood Schools Improvement Act. I want to tell the Senate that no one would jump to his feet faster in support of a bill, the Neighborhood Schools Improvement Act, if I thought it was really going to improve the neighborhood schools. I would not vote against it. I would try to vote for it twice.

The truth of the matter is the name is a sham as compared to the content of this bill. This bill is literally—I do not think only Republicans are saying this; I think I heard the distinguished Senator from Nebraska, former Governor, awhile ago talk a little bit about this bill in tones that are somewhat like part of my argument.

This bill is filled with a new level and layer of direct strings and management from Washington over the school systems in our counties, cities, and States in ways that just cannot produce better neighborhood schools. There is hardly anyone talking about rigidity of regulation and bureaucracy over our school systems as a cure for the faltering and shortcomings of our public schools in America. Yet, this bill is rampant. I mean if we had bureaucracy for the last 30 years in the aid to public education and in the attempt at telling schools what they should do if they want some of our money, if that was what was here, this bill doubles it all. In fact, there is one new set of funding that, if I read it right, the whole first $900 million that goes out there to the communities and school systems goes to planning and administration before we ever spend anything that gets down to principals and teachers and kids. It is just loaded with that.

Frankly, I do not believe at this time in American history that only members of the Democratic Party in the U.S. House and U.S. Senate have a lock on what is good for American schools. And I do not think that, as partisan as Democrats want to be here, the President of the United States, having met in summits with the Governors who have themselves said some of the things he was talking about are good, I do not believe that Republicans and the President should be shut out of the so-called Neighborhood School Improvement Act that some took the floor and said was a historic new movement in the direction of improving our schools.

Essentially that is what happened to this bill. I would not be here saying that in as much confidence as I am if I did not hear the distinguished Senator from Kansas [Mrs. KASSEBAUM] say that nobody cared what the Senate Republicans thought should be in the bill. Nobody even asked them to sign the conference report. And that included Senators like Senator KASSEBAUM. I do not see her do that very often. And when she says that, it seems to me that I can conclude that there was no interest in what this side of the aisle had to say about public education. That just cannot be right.

Second, the President of the United States, perhaps to the political chagrin of some on that side of the aisle, started down the path of moving ahead with education shortly after Secretary Alexander joined him as a Cabinet Member. He joined with a bipartisan Governor leadership in the United States to prescribe some very exciting things—the break-the-mold schools, the notion of America 2000.

We find the other side of the aisle, especially those on the Education Committee, saying, "The President wanted to be the education President; he did not do anything."

Well, let me just make sure the American people understand. He did not do anything because in a partisan way those who wrote the law decided they would not let him do anything. And that is a neat trick today, especially as you get close to the elections. Let a President get a whole series of good ideas, let Governors support him, let hundreds of communities support them—and they are. There are literally 1,500 communities and cities which have public school districts in them that are moving toward the President's goals of a break-the-mold school, including one city and county in New Mexico.

So what do we do? What did the Democratic leadership of the committee do? They gave him nothing, and then they tell the American people he was not an education President. Well, I hope everyone knows that is a pretty good way for the majority party in these two Houses to make sure that he is not, under any circumstance, going to be an education President. You urge him to get on with it. He does. He prescribes it. Then you have this historic bill, and you say to him, nothing that you suggested—nothing that you suggested—is going to be adopted by us, and we want you to sign the bill anyway.

There is chagrin here that the Republicans will say this bill is not going anywhere. There are people on the other side saying we are doing all these horrendous things to education. But what they really wanted to do was say to a President who tried, who got a lot of Governors to support him, hundreds and hundreds of communities to support his ideas, "We have better ideas. We are not going to include any of yours, and we want the bill passed, and we expect you to sign it."

Now, nobody really can believe that that is much more than the absolute epitome of playing partisan politics with education. It is. You know even on the break-the-mold school concept, we said in an appropriations bill late last year, for this fiscal year that we just finished, well, Republicans and the President are making so much noise about it, let us put $100 million in the appropriations.

Mr. President, it is very interesting. The $100 million is in there, and then there is a little parentheses, and it says "if authorized." So, everybody could say the President is getting some of his $100 million. But it is not authorized. It is not even authorized in this. So the $100 million does not even get spent. We are talking about billions, so people should not think that $100 million was any great acceptance of much of what the President wanted, but just kind of a token so nobody could say the appropriators did not want to help him with his American education program, excepting they said you got to pass this bill, and this bill has to say it is OK and we are going to do neither.

Surely you are not going to pass this. It is already here being filibustered. There is just no way that, in these closing days, anything is going to happen to it that is close to getting to the President for signature.

## THE ENERGY BILL

Mr. DOMENICI. Mr. President, it is said that a journey of 1,000 miles starts with the first step. Believe it or not, after about 15 to 18 years with almost

no energy policy for the United States and two very severe situations when the source of oil to America was held back by foreigners and we had a situation where we almost had to go to rationing—remember the lines. Remember people in New York shooting each other waiting around in gas lines.

Now there is plenty of oil, but it is all foreign oil, and our own production is going down and our consumption is going up. We are more dependent. Oil is still the prime, prime energizer of the American transportation marketplace and a sustantial player in our industrial marketplace.

So, after all this time, with the help of the President, his Secretary of Energy, and, yes, bipartisan work in both bodies, historically, a start with that first step when the comprehensive energy strategy was introduced. Now with many, many committees of the House and three or four committees of the Senate, for the last 5 or 6 weeks, working in an atmosphere which I would have thought would yield nothing, has surprisingly yielded a bill.

It is not all great, but it has some real positive energy policy. But, that energy policy encapsulated in those hundreds of pages are just about rendered useless unless we crown it with the oil production tax provisions that passed both bodies.

This parade of horrors in our country includes the shutdown of stripper wells, oil rigs rusting away in inventory, instead of pumping away in the field. There are somewhere between 350,000 to 450,000 American workers no longer employed, because we let our independent oil industry just fall apart, piece by piece, because it could not compete and because it could not get enough cash to take the risks.

All of those things are happening, and we finally pass in both bodies an energy strategy, except—except—to get American independent production back up, the American independent producers of oil, the risktakers, the finders, have to get money invested in their business. Cash has to flow from investors to the independents so they can risk drilling holes, so they can risk hiring people again.

Lo and behold, we are constantly bent on doing exactly what is the worst for a situation that we must improve. We let an alternative minimum tax, be enacted. It was part of the Tax Reform Act. It was enacted under some very exciting rhetoric from some: "Tax the extra profits being made by those who invest in oil." We created a rather beautiful sounding tax phrase, the "alternative minimum tax"—AMT, we call it today.

Well, Mr. President, with the passage of time, the alternative minimum tax, became a confiscatory tax on those who invest in risktaking, in drilling oil and gas wells. The AMT can result in effective rates for those independent oil and gas producers, believe it or not, that is anywhere from 50 to 60, to even as high as 70 or 80 percent.

So who in the world is going to take money out of the bank, or cash in some stock, or convert their CD and say, here, I want to invest in drilling an oil well, when if you do not find anything, you lose it all; if you find it, you get taxed at a confiscatory rate?

That piece of tax policy has to be changed. The substantial modification of the alternative minimum tax must occur if we are going to have any positive movement in oil patch or gas patch in America. We desperately need investment of money, new rigs in the field, new employment, and new oil found that is domestic in nature. Oil development activity is taking place in Saudi Arabia, and in other foreign countries, where our investment is going. This is terrible energy policy.

So, now, Mr. President, the issue is very, very simple but profound. Attached to the national energy strategy bill, when it left the Senate and when it left the House, is a tax component, and in both bodies that tax component includes the alternative minimum tax changes that are absolutely necessary for the energy policy encapsulated in the hundreds of pages of nontax law. If we want to increase domestic supply and to an extent lessen our foreign dependence, the tax title must be attached, or the energy policy will fall totally short of the mark.

Both bills had the alternative minimum tax changes on them. At this moment, there are two tax bills around. There is House bill 11, which is the bill that is supposed to put together assistance for the inner city problems, but is loaded with provisions that are controversial. Some provisions increase taxes under the rhetoric of Pease and PEP. They diminish the value of deductions, and the personal exemption raising the tax level for many Americans and making. The Senate version of H.R. 11 would make Pease and PEP permanent. All of that is packaged up in H.R. 11.

Both of those bills are waiting to be conferenced; that is, to get into a final form so they can pass the House and Senate and go to the President.

Now the trick of it all: Neither of those bills are in the control of any Republicans. Senator PACKWOOD, Senator DOLE, Senator DANFORTH on our side do not have anything to say about what we do in those two bills. It is totally within the control of a few Democratic Senators and a few Democratic House Members, who are the majority and control the Finance and Ways and Means Committees. I know Senator BENTSEN is committed as anyone to enacting AMT relief for the oil and gas industry. But this is a very political season.

Mr. President, I hear and now want to say that if they do not get together and pass the alternative minimum tax relief, which both bodies have already agreed to, and put it on the energy bill so it can become law, then the independent oil and gas producers, the thousands of people in this country who are going to lose their jobs, and the thousands who would have gone to work because the alternative minimum tax would bring investment back into oil patch, there is no one to blame but the leadership of the Ways and Means Committee—no one.

The President is for the alternative minimum and the tax package that passed on the energy bill. He supported it. He supported it in the House, and it is just there waiting for a half-day of meeting, and it can be put on the bill, and we will have done the most significant, positive thing for the independent oil producers and risktakers in oil and gas in the last 10 or 15, maybe 20 years.

So I come to the floor today saying to those Democratic leaders who are the ones to blame. The Republican Senators anxiously await an opportunity to put the alternative minimum tax relief on the energy bill and send it to the President for signature.

They are not interested—we are not interested in playing games between the two bills. The bill for the inner cities of America, as I said, has many other things in it which are very controversial. It is not a good legislative vehicle for the energy tax provisions. But I believe that, for some reason, one is being held hostage to the other, one is being held to leverage the other. And I just came to the floor today because unbeknownst to many, New Mexico, my home State, is the fourth largest producer of natural gas in the United States and either the sixth or seventh largest oil-producing State.

We have gone through the unemployment and the shriveling of our small communities, as oil patch went from vibrancy some 8 to 10 years ago to absolute dehydration, with businesses closed and main streets turned into almost nonexistence roads.

We have gone through that much. But we do not want it to all disappear, and we feel confident that with the alternative minimum tax relief that ought to be on the energy bill and on the way to the President. The current price of oil could cause money to flow to meet the investment needs of oil's independent operators, and we would have a ray of hope. Equally as important, America would produce much more of its own oil, which means we would buy less from others, send our hard-earned dollars to oil patch and oil workers instead of Saudi Arabia or some foreign country.

So I close by urging the leadership in this body, in particular the Ways and Means Committee in the House that they do what is right, that all facts indicate is just, do what facts indicate is

good for America, and go ahead and put the alternative minimum tax relief on the energy bill which is otherwise completed and put in place some real national energy strategy.

## DO NOT PLAY POLITICS WITH THE AMT RELIEF FOR INDEPENDENT OIL AND GAS PRODUCERS

Mr. DOMENICI. Mr. President, it has been said that a journey of a thousand miles begins with a single step. The national energy strategy is the legislative equivalent of a journey of a thousand miles.

We have come a long way and we are down to the final steps of our legislative journey. We are within sight of our destination—a comprehensive, and monumental energy strategy. Yet we may stumble. No, let me change my choice of words. We aren't going to stumble, but we may be tripped up because of political maneuvering over the very important alternative minimum tax relief needed and contained in the tax title of the energy strategy.

This is an unusual situation. In these final days of this Congress, the tax writing committees are working out the differences on two important tax bills—the tax title to the energy strategy and H.R. 11, the urban aid bill.

The tax title to the energy strategy when incorporated into the energy strategy would get signed by the President. The fate of H.R. 11 is not as clear.

But AMT relief for the independent oil and gas producers is urgent and its passage should be clear. The industry is in serious peril and they desperately need the changes in the AMT that were incorporated in the tax title to energy strategy that passed both Houses of Congress.

The oil and gas industry is one of the most capital intensive industries in the United States, and capital intensive industries bear the heaviest burden under the alternative minimum tax due to the many adjustments required of capital outlays. Some critics have gone so far as to state emphatically that AMT is a tax on capital.

I am not here to argue the merits of AMT relief for the independent oil and gas producers. I have argued the fairness, equity and good tax policy of AMT relief on many occasions. Almost every Member of this Chamber recognizes the urgency of scaling back this punitive tax.

The fate of AMT relief for independent oil and gas producers is in the hands of the Democrat leadership of the House Ways and Means Committee and the Senate Finance Committee. The members of that small group of leaders from the other side of the aisle of both Houses of Congress literally control whether many independent domestic producers will be able to continue in business.

If the oil and gas AMT provisions do not become law because the Democrats decide to play politics, the message should not be mistaken: The Democrats are willing to jeopardize an indispensable sector of our economy. We can't have growth, jobs and prosperity without the energy to run our factories, to power our utilities and to run our automobiles.

Killing the AMT provisions is tantamount to economic sabotage, energy policy treason and gross irresponsibility toward our independent producers of crude oil and natural gas.

I implore these leaders who control the destiny of AMT relief provisions approved by majority votes in both Houses of Congress to resist the temptation to play politics with the lives and businesses of our independents. It must be obvious to them, as it is to the entire Congress, that our new energy policy is incomplete with AMT tax relief.

With regard to energy policy, the basic economic facts of life are these: We need an oil industry. Oil and gas are indispensable in our economy. The independent industry needs tax relief now. There isn't much of that industry left. Delay seriously not only jeopardizes the domestic oil and gas industry in the short run but would threaten our sovereignty in the long run as we become more and more vulnerable because we can not meet our own energy needs.

One of the first acts, and most serious issues that came before this the 102d Congress was the January 12, 1991, vote to authorize force in the Persian Gulf. Let me not mince words. It was a vote to go to war.

There were many reasons why we had to go into the gulf, but the reason most related to our national self-interest was to make sure we had a source of energy—oil and gas.

We sent our sons and daughters into the gulf, some died because we needed to have a secure source of oil and gas.

Now, the domestic industry is in even greater peril and the Democrats' strategy to either kill the AMT relief or force the President into signing a big tax increase is as belligerent an act as Saddam Hussein's invasion of Kuwait.

I urge the conferees to conference quickly the tax title of the energy strategy and leave the politicking to the campaigns. We were elected to govern the country, not run the Presidential campaigns from the Senate and House Chambers.

Mr. President, perhaps later I will speak to another subject but I note that some of my colleagues have been waiting, and in particular Senator BIDEN, and I do not want to have him wait any longer. He was kind enough to let me go first, and I thank him for that, and I yield at this point.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, my friend from Idaho asked if I would yield to him for a minute or so, and I yield to him without losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank the Senator for yielding.

## IN CELEBRATION OF THE 81ST ANNIVERSARY OF THE REPUBLIC OF CHINA ON TAIWAN

Mr. CRAIG. Mr. President, I would like to take a moment to pass on my best wishes to President Lee Teng-hui, Foreign Minister Fredrick Chien and Ambassador Mou-shih Ding in honor of the celebration of the national day of the Republic of China.

On the 10th of October this year, the Republic of China will be celebrating its 81st anniversary. The relationship between the ROC and the United States has been very beneficial for both parties. Not only do I look forward to the continued relations between the United States and the ROC, but the friendly and mutually beneficial ties that have developed between the ROC and my home State of Idaho.

Mr. President, I ask unanimous consent to print a congratulatory letter in the RECORD to President Lee that is signed by myself and 38 of my Republican colleagues.

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

U.S. SENATE,
*Washington, DC, September 29, 1992.*

President LEE TENG-HUI,
*Foreign Minister Fredrick Chien, Ministry of Foreign Affairs, Taipei, Taiwan, ROC.*

DEAR MR. PRESIDENT: We send our greetings and congratulations to you, Premier Hau Pei-tsun and Foreign Minister Fredrick Chien in honor of the 81st Anniversary of the founding of the Republic of China.

The Republic of China has a long and proud history. Dr. Sun Yat-sen's dream of building a modern nation based on the principles of nationhood, freedom and equality is being realized on the island of Taiwan. The Republic of China is universally recognized as a major economic power and a democracy whose citizens enjoy one of the highest standards of living in Asia.

We applaud your achievements and hope you and your people will continue to prosper.

Through the good offices of your representatives here in Washington, most notably through the tireless efforts of Ambassador Ding-shih, we have been kept informed of the developments in your country. First, let us congratulate you on the ruling RMT party's overwhelming success at last December's National Assembly elections. We were also pleased to hear the news of your country's having launched a 6-year National Development Plan with a budget of U.S. $303 billion. Finally, your country's recent success in establishing representative offices with the states of the former Soviet Union is to be commended.

Undoubtedly, there will be challenges ahead for you and your people, but we have confidence in your leadership and the resolve of your people to rise to the occasion and

continue to be a fine example of democracy and prosperity to the rest of the world.

We are pleased that President Bush has decided to sell F–16 jet fighters to the ROC and that he has strongly endorsed your country's bid to join the GATT. These and other actions taken by the administration strongly suggest that the partnership between the ROC and the United States continues to strengthen.

Congratulations, Mr. President. Please be assured that we are solidly behind you, your people and your democratic ideals.

Sincerely,

Larry E. Craig, Thad Cochran, Phil Gramm, Mitch McConnell, Bob Packwood, Bob Dole, Steve Symms, Pete V. Domenici, John Seymour, Malcolm Wallop, Richard G. Lugar, Orrin G. Hatch, Jesse Helms, Jake Garn, Trent Lott, Slade Gorton, Bill Roth, Connie Mack, Jim Jeffords, Hank Brown.

Don Nickles, Conrad Burns, Nancy Landon Kassebaum, Ted Stevens, Strom Thurmond, Bill Cohen, Dan Coats, Bob Kasten, Alfonse D'Amato, Mark O. Hatfield, Dave Durenberger, Chuck Grassley, Warren B. Rudman, Frank H. Murkowski, Larry Pressler, Arlen Specter, John McCain, Alan Simpson, John C. Danforth.

## PRESIDENT BUSH'S POLICY TOWARD IRAQ

Mr. BIDEN. Mr. President, 3 days ago the junior Senator from Tennessee [Mr. GORE], developed a comprehensive critique of President Bush's policy toward Iraq, and there has been much discussion about that statement since then.

The criticism that Senator GORE directed at administration policy apparently stung last evening. Some of my colleagues on the other side of the aisle engaged in fairly lively attack on Senator GORE while others challenged his critique of the Bush policy. In supporting Senator GORE today I intend to stick to the substance and I hope if there is any further discussion on that my colleagues will do the same.

This subject was not raised by Democrats. It is President Bush who repeatedly emphasized his role in reversing Iraq's invasion of Kuwait. It is President Bush and his campaign aides who continue to attack Governor Clinton for supposedly waffling in his support of the gulf war. In truth, I can think of no Democrat who has criticized the President's response to Saddam Hussein's invasion of Kuwait. Senator GORE was right, and I might say eminently fair, to say, and I quote:

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 Senator GORE also was right when he said, and I again quote.

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.

So let us examine what the President's supporters have said on this floor in defense of the Bush administration's diplomatic record. One of my Republican colleagues challenged Senator GORE's critique with two arguments.

First, my friend argued that it was not President Bush whose policies helped build Saddam's war machine but rather China, the Soviet Union, and other countries. The distinguished Republican Senator's second argument was that President Bush's efforts to moderate Iraqi behavior prior to August 1990 were supported by Republicans and Democrats alike.

I would like to speak to both those points, if I may. On the first point, no argument: the United States was not Iraq's biggest military supplier. The Bush administration was not guilty as Moscow's Communists, or Beijing, or even Paris in arming Saddam Hussein. President Bush is not as guilty. But "not as guilty" does not mean "innocent", particularly when it is United States policy that Saddam Hussein probably viewed as the ultimate guide to what he could, and could not, get away with—in his tyranny, his genocide, and his aggression.

It simply cannot be denied that it was President Bush, in his October 1989 national security directive, who ordered his administration to establish closer ties with Saddam Hussein's bloodthirsty dictatorship. And just as day follows night that fateful decision had consequences.

The Bush administration enthusiastically supported billions of dollars in grain credits for Baghdad. And the President's men bent over backward to justify questionable high technology exports to Iraq, exports that had a powerful military potential. To deny that these credits freed up money for Saddam to spend on weapons, to deny that U.S. dual use exports played absolutely no role in Saddam's war machine, to deny that Saddam Hussein drew conclusions from this weak policy, is to deny reality.

Think about it, Mr. President: Saddam Hussein has already engaged in the most heinous crime known to man, genocide, and the Bush administration was still treating him with kid gloves. The administration did help build Saddam's weapons of war. It did lead Saddam to believe that the Bush administration would ignore any crime he might commit in its enthusiasm to win his friendship.

When it comes to appeasement, one is either guilty or innocent, Mr. President. And the sad truth is that, in his prewar diplomacy, President Bush was guilty of a sustained act of appeasement constituting a colossal foreign policy blunder.

Turning to the second point made by my distinguished Republican friend yesterday, I do not concede even partial agreement with his premise. Were the President's policies really supported by Republicans and Democrats alike up until August of 1990? I think not, Mr. President. It is true that from 1980 to 1988 when Iraq was at war with Iran, American officials were concerned, and rightly, about dangerous Islamic fundamentalism.

For emotional reasons, because Iran had taken Americans hostage, and for strategic reasons, because no one wanted Iran to dominate the Persian gulf, many of us accepted the Reagan administration's mild tilt toward Iraq as a practical measure. That was a pragmatic measure not unlike American support for the Soviet Union during the war against Hitler.

But what happened after the Iran-Iraq war was over? President Bush likes to compare himself to Harry Truman. Well, in 1945 when the Second World War had ended, President Truman recognized the changed reality; indeed he ordered the lend-lease ships that were in the mid-Atlantic to turn around and come home.

Why? Because there was no longer any need to perpetuate our pragmatic alliance with Stalin.

When George Bush took office in January of 1989, did he conduct a similar reappraisal of policy under changed circumstances? The answer is clearly no. He put the accelerator to the floor, to race full speed ahead with a policy of appeasement.

Later, after the invasion of Kuwait, President Bush attempted to cast himself in the role of Winston Churchill standing against the aggression of Adolf Hitler. The fact is that, in the years before Saddam's invasion of Kuwait, our President did a rather bitter imitation of Neville Chamberlain. If anyone was in the role of Churchill, it was those in Congress, including Senators PELL and HELMS, trying to shake the Bush administration from its determined policy of appeasement.

My friend said yesterday, and I quote:

No one seriously challenged our policy in the months between August of 1988 and the August 1990 invasion of Kuwait.

I would beg to differ and beg to differ most profoundly. Has the Senator forgotten that the Reagan-Bush administration's adamant position to Senate efforts to impose sanctions on Iraq in 1988 in response to genocide, its determined and, unfortunately, successful opposition to congressional efforts to enact the "Prevention of Genocide Act"?

Has the Senator also forgotten President Bush's rejection of the congressional sanctions again in July 1990, just 1 week before the invasion?

I ask my friends on the other side who spoke in a similar vein, do they remember why the Congress sought to impose sanctions on Iraq? Have the President's supporters forgotten about the gassing of innocent Kurdish civilians, the thousands of horrible, excruciating deaths ordered by Saddam Hus-

sein against the citizens of his own country?

That is, indeed, what struck me most about yesterday's debate. Not once, in all their assertions made and all their attacks, not once did President Bush's supporters mention Saddam's barbaric use of chemical weapons against the Kurds. They totally ignored genocide while rising up in righteous indignation to claim that Senator GORE was out of bounds in referring to President Bush's moral blindness. Well, what else is it? I would say that moral blindness was in fact a rather kinder and gentler way of putting it. Just where was President Bush's policy lens focused when the Kurds were suffering relentless poison gas attacks?

Nor, I might add, was this a simple oversight—a policy decision that "fell between the cracks," so to speak. But it was not even that. Rather it was part of a larger pattern, characteristic of the administration, of ignoring fundamental principles of human rights in the pursuit of friendly relations with tyrants.

Look at the administration's policy toward China. Does not the coddling of the butcher of Beijing, along with the butcher of Baghdad, demonstrate for all to see that moral blindness has become virtually a hallmark of our present foreign policy?

Since the 1989 massacre on Tiananmen Square, the Communist elders in Beijing have had precious little to fear from Washington. Why? Because the administration has vetoed every congressional effort to sanction China's brutal human rights policies and its dangerously irresponsible sales of weapons to rogue nations around the world.

I want the record to show we have disagreed 2, 3, 4, 10, 12 times. We have passed legislation here and the President has vetoed it. We did the same thing, Mr. President, with regard to Saddam Hussein. I just want to remind my friends, that on this floor a year ago, 2 years ago—

We did that, Mr. President. So, for whatever mysterious reason, opposition to sanctions against tyrants—the coddling of tyrants, to be extremely critical about it—is the one objective that has energized the Bush administration as much as its obsession with a cut in the tax on capital gains.

Let me conclude with a prediction of basic cause and effect. Every time President Bush or his campaign aids claim credit for the President's role in the gulf war, I will join with others in reminding the American people of the origins of that war. For it was: only after propping up Saddam Hussein with loans; only after disregarding a mountain of incriminating evidence that Saddam was using American aid to buy arms; only after ignoring Saddam Hussein's genocidal slaughter of his own Kurdish citizens; only after fostering high technology exports to Iraq even as Saddam Hussein provided safe haven for the world's most infamous terrorists; only after overlooking his manifest quest for nuclear and chemical weapons; only after supplying Saddam Hussein with military intelligence almost until the eve of the invasion; only after first responding that the United States contemplated no military action; and only after being wakened from his moral slumber by Prime Minister Thatcher—only then did the President finally act.

Mr. President, in past weeks I have examined President Bush's policy vis-a-vis the former Soviet Union, in China, in the Middle East, in arms control, in nonproliferation—the Bush foreign policy around the world. And my conclusion is this: It is not just President Bush's Iraq policy that fails short of the grandiose claims made for it. It is the entire foreign policy of this administration that falls short.

I am anxiously looking forward to the debate between the two Presidential candidates on foreign policy. Everyone seems to acknowledge there is no economic policy. I am anxious for the debate on the foreign policy to prove that there is not a foreign policy.

Mr. President, the President of the United States did show immense skill once he decided, after all the diplomatic failures, that he should have acted. And I stand here and say, had he acted properly diplomatically would we have been able to avoid the ultimate 500,000 troop commitment or thereabouts that was made by us, and the billions of dollars spent? The honest answer to that question is I do not know whether we could have. I do not know for certain that, had we acted in concurrence with congressional requests to sanction Saddam Hussein, that that would have stopped Saddam Hussein.

But one thing I do know. The diplomatic policy was an abject failure.

Mr. President, if you want to take credit for correcting a disaster, you must be willing to be looked at in terms of whether or not your actions brought about the disaster in the first place.

The only people who were completely unsullied in this effort were the brave women and men in uniform, sent to that region to do the job. And they did it so admirably, we almost forgot that it is very important to correct our foreign policy myopia. The result of which was clear: A costly way to make up for a serious foreign policy blunder.

I yield the floor.

## THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

### MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. SYMMS. Mr. President, I have been on the floor here since 3 p.m., and I found it most enlightening, the comments of many of my colleagues from both sides of the aisle. We have talked about everything except the pending business. But it has been most enlightening and most interesting. I think it is worth saying that the distinguished President pro tempore talked about a new book of procedures that has been recently written, and Alan Frumin, the Parliamentarian of the Senate.

I want to just say to my colleagues that I think there is no Senator who is opposed to most of the projects that happen at the National Institutes of Health. But I think it is worthy to note that there are enough Senators who have some objection to certain parts of this authorization bill that under the time constraints, the bill is not going anywhere.

I expect that every Senator is aware of the important scientific research involving the use of fetal tissue that has been done and is continuing unabated today. That fetal tissue research is important. And I expect that every Senator supports the Federal contribution to that research.

So the question comes then, why are we here today debating this bill at such length, and going through these cloture votes? We are not here because Senators oppose the work of the National Institutes of Health. We are not here because of their concern about induced abortions associated with the language in this bill on certain types of fetal research. The President has previously vetoed very similar legislation in part because of the abortion issue, and Congress has sustained that veto.

So that is not why we are here. The question of course is why are we here? And let me say it as plainly as I can. We are here because of politics. We are simply here because the leadership of the Congress, the Democratic leadership, has decided it would be politically harmful to the President if he pocket-vetoes this bill just a few days before the election.

There is no possibility this bill will become law this year. The only reason in the world to have us here—for the second time this year this is on the agenda—is the perception of the majority of the political ramifications for the President when he vetoes this bill.

Mr. President, the majority party is the majority and, after all, they do have the votes and they can push something they want. They can shove it hard, push it hard and they can finally get their way, but after having talked with a number of my colleagues on this side of the aisle, it will not be easy. I think there is no better master of the rules of the Senate than the distinguished President pro tempore. He made it very clear that one of the great things about this Senate is that a few Senators, if they use their ability and

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the rules and the procedures, can slow something down at least for a while.

I think it is very clear, if one looks at the rules, we simply are not going anywhere with this authorization bill. My hope would be that when the leadership recognizes this, they will pull this bill down and we will get on with what needs to get done: The DOD authorization and appropriations bill, the energy bill that Senator DOMENICI so eloquently spoke to earlier this afternoon. We need to get some of these things done that could be very helpful to the people of this country. We can pull this bill down and they can have another look at this next year.

Mr. President, I have been a Member of this body for 12 years. I kept at my desk a treatise by the late Frederic Bastiat. I want to share this treatise by Bastiat with my colleagues as it pertains to this legislation, but also other pieces of legislation that come before this body.

I want to read this, first, about this treatise:

When a reviewer wishes to give special recognition to a book, he predicts that it will still be read "a hundred years from now." "The Law", first published as a pamphlet in June, 1850, is already more than a hundred years old. And because its truths are eternal, it will still be read when another century has passed.

Frederic Bastiat (1801–1850) was a French economist, statesman, and author. He did most of his writing during the years just before—and immediately following—the Revolution of February 1848. This was the period when France was rapidly turning to complete socialism. As a Deputy to the Legislative Assembly, Mr. Bastiat was studying and explaining each socialist fallacy as it appeared. And he explained how socialism must inevitably degenerate into communism. But most of his countrymen chose to ignore his logic.

"The Law" is here presented again because the same situation exists in America today as in the France of 1848. The same socialist-communist ideas and plans that were then adopted in France are now sweeping America. The explanations and arguments then advanced against socialism by Mr. Bastiat are—word for word—equally valid today. His ideas deserve a serious hearing.

Mr. President, this book was published by the Foundation for Economic Education at Irvington-on-Hudson in New York. It is in its 12th printing. It was translated by Dean Russell of the foundation staff and "his objective was to make an accurate rendering of Bastiat's words and ideas into 20th century English. * * *"

Mr. President, I ask unanimous consent that this treatise be printed in the RECORD. I shall read some excerpts from it.

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

THE LAW

THE BOOK AND AUTHOR

When a reviewer wishes to give special recognition to a book, he predicts that it will still be read "a hundred years from now." The Law, first published as a pamphlet in June, 1850, is already more than a hundred years old. And because its truths are eternal, it will still be read when another century has passed.

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THE TRANSLATION

This translation of The Law was done by Dean Russell of The Foundation staff. His objective was an accurate rendering of Mr. Bastiat's words and ideas into twentieth century, idiomatic English.

A nineteenth century translation of The Law, made in 1853 in England by an unidentified contemporary of Mr. Bastiat, was of much value as a check against this translation. In addition, Dean Russell had his work reviewed by Bertrand de Jouvenel, the noted French economist, historian, and author who is also thoroughly familiar with the English language.

While Mr. de Jouvenel offered many valuable corrections and suggestions, it should be clearly understood that Dr. Russell bears full responsibility for the translation.

The law perverted! And the police powers of the state perverted along with it! The law, I say, not only turned from its proper purpose but made to follow an entirely contrary purpose! The law become the weapon of every kind of greed! Instead of checking crime, the law itself guilty of the evils it is supposed to punish!

If this is true, it is a serious fact, and moral duty requires me to call the attention of my fellow-citizens to it.

LIFE IS A GIFT FROM GOD

We hold from God the gift which includes all others. This gift is life—physical, intellectual, and moral life.

But life cannot maintain itself alone. The Creator of life has entrusted us with the responsibility of preserving, developing, and perfecting it. In order that we may accomplish this, He has provided us with a collection of marvelous faculties. And He has put us in the midst of a variety of natural resources. By the application of our faculties to these natural resources we convert them into products, and use them. This process is necessary in order that life may run its appointed course.

Life, faculties, production—in other words, individuality, liberty, property—this is man. And in spite of the cunning of artful political leaders, these three gifts from God precede all human legislation, and are superior to it.

Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place.

WHAT IS LAW?

What, then, is law? It is the collective organization of the individual right to lawful defense.

Each of us has a natural right—from God—to defend his person, his liberty, and his property. These are the three basic requirements of life, and the preservation of any one of them is completely dependent upon the preservation of the other two. For what are our faculties but the extension of our individuality? And what is property but an extension of our faculties?

If every person has the right to defend—even by force—his person, his liberty, and his property, then it follows that a group of men have the right to organize and support a common force to protect these rights constantly. Thus the principle of collective right—its reason for existing, its lawfulness—is based on individual right. And the common force that protects this collective right cannot logically have any other purpose or any other mission than that for which it acts as a substitute. Thus, since an individual cannot lawfully use force against the person, liberty, or property of another individual, then the common force—for the same reason—cannot lawfully be used to destroy the person, liberty, or property of individuals or groups.

Such a perversion of force would be, in both cases, contrary to our premise. Force has been given to us to defend our own individual rights. Who will dare to say that force has been given to us to destroy the equal rights of our brothers? Since no individual acting separately can lawfully use force to destroy the rights of others, does it not logically follow that the same principle also applies to the common force that is nothing more than the organized combination of the individual forces?

If this is true, then nothing can be more evident than this: The law is the organization of the natural right of lawful defense. It is the substitution of a common force for individual forces. And this common force is to do only what the individual forces have a natural and lawful right to do: to protect persons, liberties, and properties; to maintain the right of each, and to cause justice to reign over us all.

A JUST AND ENDURING GOVERNMENT

If a notion were founded on this basis, it seems to me that order would prevail among the people, in thought as well as in deed. It seems to me that such a nation would have the most simple, easy to accept, economical, limited, non-oppressive, just, and enduring government imaginable—whatever its political form might be.

Under such an administration, everyone would understand that he possessed all the privileges as well as all the responsibilities of his existence. No one would have any argument with government, provided that his person was respected, his labor was free, and the fruits of his labor were protected against all unjust attack. When successful, we would not have to thank the state for our success. And, conversely, when unsuccessful, we would no more think of blaming the state for our misfortune than would the farmers blame the state because of hail or frost. The state would be felt only by the invaluable blessings of safety provided by this concept of government.

It can be further stated that, thanks to the non-intervention of the state in private affairs, our wants and their satisfactions would develop themselves in a logical manner. We would not see poor families seeking literary instruction before they have bread.

We would not see cities populated at the expense of rural districts, nor rural districts at the expense of cities. We would not see the great displacements of capital, labor, and population that are caused by legislative decisions.

The sources of our existence are made uncertain and precarious by these state-created displacements. And, furthermore, these acts burden the government with increased responsibilities.

THE COMPLETE PERVERSION OF THE LAW

But, unfortunately, law by no means confines itself to its proper functions. And when it has exceeded its proper functions, it has not done so merely in some inconsequential and debatable matters. The law has gone further than this; it has acted in direct opposition to its own purpose. The law has been used to destroy its own objective: It has been applied to annihilating the justice that it was supposed to maintain; to limiting and destroying rights which its real purpose was to respect. The law has placed the collective force at the disposal of the unscrupulous who wish, without risk, to exploit the person, liberty, and property of others. It has converted plunder into a right, in order to protect plunder. And it has converted lawful defense into a crime, in order to punish lawful defense.

How has this perversion of the law been accomplished? And what have been the results?

The law has been perverted by the influence of two entirely different causes: stupid greed and false philanthropy. Let us speak of the first.

A FATAL TENDENCY OF MANKIND

Self-preservation and self-development are common aspirations among all people. And if everyone enjoyed the unrestricted use of his faculties and the free disposition of the fruits of his labor, social progress would be ceaseless, uninterrupted, and unfailing.

But there is also another tendency that is common among people. When they can, they wish to live and prosper at the expense of others. This is no rash accusation. Nor does it come from a gloomy and uncharitable spirit. The annals of history bear witness to the truth of it: the incessant wars, mass migrations, religious persecutions, universal slavery, dishonesty in commerce, and monopolies. This fatal desire has its origin in the very nature of man—in that primitive, universal, and insuppressible instinct that impels him to satisfy his desires with the least possible pain.

PROPERTY AND PLUNDER

Man can live and satisfy his wants only by ceaseless labor; by the ceaseless application of his faculties to natural resources. This process is the origin of property.

But it is also true that a man may live and satisfy his wants by seizing and consuming the products of the labor of others. This process is the origin of plunder.

Now since man is naturally inclined to avoid pain—and since labor is pain in itself—it follows that men will resort to plunder whenever plunder is easier than work. History shows this quite clearly. And under these conditions, neither religion nor morality can stop it.

When, then, does plunder stop? It stops when it becomes more painful and more dangerous than labor.

It is evident, then, that the proper purpose of law is to use the power of its collective force to stop this fatal tendency to plunder instead of to work. All the measures of the law should protect property and punish plunder.

But, generally, the law is made by one man or one class of men. And since law cannot operate without the sanction and support of a dominating force, this force must be entrusted to those who make the laws.

This fact, combined with the fatal tendency that exists in the heart of man to satisfy his wants with the least possible effort, explains the almost universal perversion of the law. Thus it is easy to understand how law, instead of checking injustice, becomes the invincible weapon of injustice. It is easy to understand why the law is used by the legislator to destroy in varying degrees among the rest of the people, their personal independence by slavery, their liberty by oppression, and their property by plunder. This is done for the benefit of the person who makes the law, and in proportion to the power that he holds.

VICTIMS OF LAWFUL PLUNDER

Men naturally rebel against the injustice of which they are victims. Thus, when plunder is organized by law for the profit of those who make the law, all the plundered classes try somehow to enter—by peaceful or revolutionary means—into the making of laws. According to their degree of enlightenment, these plundered classes may propose one of two entirely different purposes when they attempt to attain political power: Either they may wish to stop lawful plunder, or they may wish to share in it.

Woe to the nation when this latter purpose prevails among the mass victims of lawful plunder when they, in turn, seize the power to make laws!

Until that happens, the few practice lawful plunder upon the many, a common practice where the right to participate in the making of law is limited to a few persons. But then, participation in the making of law becomes universal. And then, men seek to balance their conflicting interests by universal plunder. Instead of rooting out the injustices found in society, they make these injustices general. As soon as the plundered classes gain political power, they establish a system of reprisals against other classes. They do not abolish legal plunder. (This objective would demand more enlightenment than they possess.) Instead, they emulate their evil predecessors by participating in this legal plunder, even though it is against their own interests.

It is as if it were necessary, before a reign of justice appears, for everyone to suffer a cruel retribution—some for their evilness, and some for their lack of understanding.

THE RESULTS OF LEGAL PLUNDER

It is impossible to introduce into society a greater change and a greater evil than this: the conversion of the law into an instrument of plunder.

What are the consequences of such a perversion? It would require volumes to describe them all. Thus we must content ourselves with pointing out the most striking.

In the first place, it erases from everyone's conscience the distinction between justice and injustice.

No society can exist unless the laws are respected to a certain degree. The safest way to make laws respected is to make them respectable. When law and morality contradict each other, the citizen has the cruel alternative of either losing his moral sense or losing his respect for the law. These two evils are of equal consequence, and it would be difficult for a person to choose between them.

The nature of law is to maintain justice. This is so much the case that, in the minds of the people, law and justice are one and the same thing. There is in all of us a strong disposition to believe that anything lawful is also legitimate. This belief is so widespread that many persons have erroneously held that things are "just" because law makes them so. Thus, in order to make plunder appear just and sacred to many consciences, it is only necessary for the law to decree and sanction it. Slavery, restrictions, and monopoly find defenders not only among those who profit from them but also among those who suffer from them.

THE FATE OF NON-CONFORMISTS

If you suggest a doubt as to the morality of these institutions, it is boldly said that "You are a dangerous innovator, a utopian, a theorist, a subvervise; you would shatter the foundation upon which society rests."

If you lecture upon morality or upon political science, there will be found official organizations petitioning the government in this vein of though; "That science no longer be taught exclusively from the point of view of free trade (of liberty, of property, and of justice) as has been the case until now, but also, in the future, science is to be especially taught from the viewpoint of the facts and laws that regulate French industry (facts and laws which are contrary to liberty, to property, and to justice). That, in government-endowed teaching positions, the professor rigorously refrain from endangering in the slightest degree the respect due to the laws now in force."[1]

Thus, if there exists a law which sanctions slavery or monopoly, oppression or robbery, in any form whatever, it must not even be mentioned. For how can it be mentioned without damaging the respect which it inspires? Still further, morality and political economy must be taught from the point of view of this law, from the supposition that it must be a just law merely because it is a law.

Another effect of this tragic perversion of the law is that it gives an exaggerated importance to political passions and conflicts, and to politics in general.

I could prove this assertion in a thousand ways. But, by way of illustration, I shall limit myself to a subject that has lately occupied the minds of everyone: universal suffrage.

WHO SHALL JUDGE?

The followers of Rosseau's school of thought—who consider themselves far advanced, but whom I consider twenty centuries behind the times—will not agree with me on this. But universal suffrage—using the world in its strictest sense—is not one of those sacred dogmas which it is a crime to examine or doubt. In fact serious objections may be made to universal suffrage.

In the first place, the word *universal* conceals a gross fallacy. For example, there are 36 million people in France. Thus, to make the right of suffrage universal, there should be 36 million voters. But the most extended system permits only 9 million people to vote. Three persons out of four are excluded. And more than this, they are excluded by the fourth. This fourth person advances the principle of *incapacty* as his reason for excluding the others.

Universal suffrage means, then, universal suffrage for those who are capable. But there remains this question of fact: Who is capable? Are minors, females, insane persons, and persons who have committed certain major crimes the only ones to be determined incapable?

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[1] General Council of Manufacturers, Agriculture, and Commerce, May 6, 1850.

THE REASON WHY VOTING IS RESTRICTED

A closer examination of the subject shows us the motive which causes the right of suffrage to be based upon the supposition of incapacity. The motive is that the elector or voter does not exercise this right for himself alone, but for everybody.

The most extended elective system and the most restricted elective system are alike in this respect. They differ only in respect to what constitutes incapacity. It is not a difference of principle, but merely a difference of degree.

If, as the republicans of our present-day Greek and Roman schools of thought pretend, the right of suffrage arrives with one's birth, it would be an injustice for adults to prevent women and children from voting. Why are they prevented? Because they are presumed to be incapable. And why is incapacity a motive for exclusion? Because it is not the voter alone who suffers the consequences of his vote; because each vote touches and affects everyone in the entire community; because the people in the community have a right to demand some safeguards concerning the acts upon which their welfare and existence depend.

THE ANSWER IS TO RESTRICT THE LAW

I know what might be said in answer to this; what the objections might be. But this is not the place to exhaust a controversy of this nature. I wish merely to observe here that this controversy over universal suffrage (as well as most other political questions) which agitates, excites, and overthrows nations, would lose nearly all of its importance if the law had always been what it ought to be.

In fact, if law were restricted to protecting all persons, all liberties, and all properties; if law were nothing more than the organized combination of the individual's right to self defense; if law were the obstacle, the check, the punisher of all oppression and plunder—is it likely that we citizens would then argue much about the extent of the franchise?

Under these circumstances, is it likely that the extent of the right to vote would endanger that supreme good, the public peace? Is it likely that the excluded classes would refuse to peaceably await the coming of their right to vote? Is it likely that those who had the right to vote would jealously defend their privilege?

If the law were confined to its proper functions, everyone's interest in the law would be the same. Is it not clear that, under these circumstances, those who voted could not inconvenience those who did not vote?

THE FATAL IDEA OF LEGAL PLUNDER

But on the other hand, imagine that this fatal principle has been introduced: Under the pretense of organization, regulation, protection, or encouragement, the law takes property from one person and gives it to another; the law takes the wealth of all and gives it to a few—whether farmers, manufacturers, shipowners, artists, or comedians. Under these circumstances, then certainly every class will aspire to grasp the law, and logically so.

The excluded classes will furiously demand their right to vote—and will overthrow society rather than not to obtain it. Even beggars and vagabonds will then prove to you that they also have an incontestable title to vote. They will say to you:

"We cannot buy wine, tobacco, or salt without paying the tax. And a part of the tax that we pay is given by law—in privileges and subsidies—to men who are richer than we are. Others use the law to raise the prices of bread, meat, iron, or cloth. Thus, since everyone else uses the law for his own profit, we also would like to use the law for our own profit. We demand from the law the right to relief, which is the poor man's plunder. To obtain this right, we also should be voters and legislators in order that we may organize Beggary on a grand scale for our own class, as you have organized Protection on a grand scale for your class. Now don't tell us beggars that you will act for us, and then toss us, as Mr. Mimerel proposes, 600,000 francs to keep us quiet, like throwing us a bone to gnaw. We have other claims. And anyway, we wish to bargain for ourselves as other classes have bargained for themselves!"

And what can you say to answer that argument!

PERVERTED LAW CAUSES CONFLICT

As long as it is admitted that the law may be diverted from its true purpose—that it may violate property instead of protecting it—then everyone will want to participate in making the law, either to protect himself against plunder or to use it for plunder. Political questions will always be prejudicial, dominant, and all-absorbing. There will be fighting at the door of the Legislative Palace, and the struggle within will be no less furious. To know this, it is hardly necessary to examine what transpires in the French and English legislatures; merely to understand the issue is to know the answer.

Is there any need to offer proof that this odious perversion of the law is a perpetual source of hatred and discord; that it tends to destroy society itself? If such proof is needed, look at the United States [in 1850]. There is no country in the world where the law is kept more within its proper domain: the protection of every person's liberty and property. As a consequence of this, there appears to be no country in the world where the social order rests on a firmer foundation. But even in the United States, there are two issues—and only two—that have always endangered the public peace.

SLAVERY AND TARIFFS ARE PLUNDER

What are these two issues? They are slavery and tariffs. These are the only two issues where, contrary to the general spirit of the republic of the United States, law has assumed the character of a plunderer.

Slavery is a violation, by law, of liberty. The protective tariff is a violation, by law, of property.

It is a most remarkable fact that this double legal crime—a sorrowful inheritance from the Old World—should be the only issue which can, and perhaps will, lead to the ruin of the Union. It is indeed impossible to imagine, at the very heart of society, a more astounding fact than this: The law has come to be an instrument of injustice. And if this fact brings terrible consequences to the United States—where the proper purpose of the law has been perverted only in the instances of slavery and tariffs—what must be the consequences in Europe, where the perversion of the law is a principle; a system?

TWO KINDS OF PLUNDER

Mr. de Montalembert [politician and writer] adopting the thought contained in a famous proclamation by Mr. Carlier, has said: "We must make war against socialism." According to the definition of socialism advanced by Mr. Charles Dupin, he meant: "We must make war against plunder."

But of what plunder was he speaking? For there are two kinds of plunder: legal and illegal.

I do not think that illegal plunder, such as theft or swindling—which the penal code defines, anticipates, and punishes—can be called socialism. It is not this kind of plunder that systematically threatens the foundations of society. Anyway, the war against this kind of plunder has not waited for the command of these gentlemen. The war against illegal plunder has been fought since the beginning of the world. Long before the Revolution of February 1848—long before the appearance even of socialism itself—France had provided police, judges, gendarmes, prisons, dungeons, and scaffolds for the purpose of fighting illegal plunder. The law itself conducts this war, and it is my wish and opinion that the law should always maintain this attitude toward plunder.

THE LAW DEFENDS PLUNDER

But it does not always do this. Sometimes the law defends plunder and participates in it. Thus the beneficiaries are spared the shame, danger, and scruple which their acts would otherwise involve. Sometimes the law places the whole apparatus of judges, police, prisons, and gendarmes at the service of the plunderers, and treats the victim—when he defends himself—as a criminal. In short, there is a legal plunder, and it is of this, no doubt, that Mr. de Montalembert speaks.

This legal plunder may be only an isolated stain among the legislative measures of the people. If so, it is best to wipe it out with a minimum of speeches and denunciations—and in spite of the uproar of the vested interests.

HOW TO IDENTIFY LEGAL PLUNDER

But how is this legal plunder to be identified? Quite simply. See if the law takes from some persons what belongs to them, and gives it to other persons to whom it does not belong. See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime.

Then abolish this law without delay, for it is not only an evil itself, but also it is a fertile source for further evils because it invites reprisals. If such a law—which may be an isolated case—is not abolished immediately, it will spread, multiply, and develop into a system.

The person who profits from this law will complain bitterly, defending his acquired rights. He will claim that the state is obligated to protect and encourage his particular industry; that this procedure enriches the state because the protected industry is thus able to spend more and to pay higher wages to the poor workingmen.

Do not listen to this sophistry by vested interests. The acceptance of these arguments will build legal plunder into a whole system. In fact this has already occurred. The present-day delusion is an attempt to enrich everyone at the expense of everyone else; to make plunder universal under the pretense of organizing it.

LEGAL PLUNDER HAS MANY NAMES

Now, legal plunder can be committed in an infinite number of ways. Thus we have an infinite number of plans for organizing it: tariffs, protection, benefits, subsidies, encouragements, progressive taxation, public schools, guaranteed jobs, guaranteed profits, minimum wages, a right to relief, a right to the tools of labor, free credit, and so on, and so on. All these plans as a whole—with their common aim of legal plunder—constitute socialism.

Now, since under this definition socialism is a body of doctrine, what attack can be made against it other than a war of doctrine? If you find this socialistic doctrine to be false, absurd, and evil, then refute it. And

the more false, the more absurd, and the more evil it is, the easier it will be to refute. Above all, if you wish to be strong, begin by rooting out every particle of socialism that may have crept into your legislation. This will be no light task.

SOCIALISM IS LEGAL PLUNDER

Mr. de Montalembert has been accused of desiring to fight socialism by the use of brute force. He ought to be exonerated from this accusation, for he has plainly said: "The war that we must fight against socialism must be in harmony with law, honor, and justice."

But why does not Mr. de Montalembert see that he has placed himself in a vicious circle? You would use the law to oppose socialism? But it is upon the law that socialism itself relies. Socialists desire to practice legal plunder, not illegal plunder. Socialists, like all other monopolists, desire to make the law their own weapon. And when once the law is on the side of socialism, how can it be used against socialism? For when plunder is abetted by the law, it does not fear your courts, your gendarmes, and your prisons. Rather, it may call upon them for help.

To prevent this, you would exclude socialism from entering into the making of laws? You would prevent socialists from entering the Legislative Palace? You shall not succeed, I predict, so long as legal plunder continues to be the main business of the legislature. It is illogical—in fact, absurd—to assume otherwise.

THE CHOICE BEFORE US

This question of legal plunder must be settled once and for all, and there are only three ways to settle it:

1. The few plunder the many.
2. Everybody plunders everybody.
3. Nobody plunders anybody.

We must make our choice among limited plunder, universal plunder, and no plunder. The law can follow only one of these three.

Limited legal plunder: This system prevailed when the right to vote was restricted. One would turn back to this system to prevent the invasion of socialism.

Universal legal plunder: We have been threatened with this system since the franchise was made universal. The newly enfranchised majority has decided to formulate law on the same principle of legal plunder that was used by their predecessors when the vote was limited.

No legal plunder: This is the principle of justice, peace, order, stability, harmony, and logic. Until the day of my death, I shall proclaim this principle with all the force of my lungs (which alas! is all too inadequate).[2]

THE PROPER FUNCTION OF THE LAW

And, in all sincerity, can anything more than the absence of plunder be required of the law? Can the law—which necessarily requires the use of force—rationally be used for anything except protecting the rights of everyone? I defy anyone to extend it beyond this purpose without perverting it and, consequently, turning might against right. This is the most fatal and most illogical social perversion that can possibly be imagined. It must be admitted that the true solution—so long searched for in the area of social relationship—is contained in these simple words: Law is organized justice.

Now this must be said: When justice is organized by law—that is, by force—this excludes the idea of using law (force) to organize any human activity whatever, whether it be labor, charity, agriculture, commerce, industry, education, art, or religion. The organizing by law of any one of these would inevitably destroy the essential organization—justice. For truly, how can we imagine force being used against the liberty of citizens without it also being used against justice, and thus acting against its proper purpose?

THE SEDUCTIVE LURE OF SOCIALISM

Here I encounter the most popular fallacy of our times. It is not considered sufficient that the law should be just; it must be philanthropic. Nor is it sufficient that the law should guarantee to every citizen the free and inoffensive use of his faculties for physical, intellectual, and moral self-improvement. Instead, it is demanded that the law should directly extend welfare, education, and morality throughout the nation.

This is the seductive lure of socialism. And I repeat again: These two uses of the law are in direct contradiction to each other. We must choose between them. A citizen cannot at the same time be free and not free.

ENFORCED FRATERNITY DESTROYS LIBERTY

Mr. de Lamartine once wrote to me thusly: "Your doctrine is only the half of my program. You have stopped at liberty; I go on to fraternity." I answered him: "The second half of your program will destroy the first."

In fact, it is impossible for me to separate the word fraternity from the word voluntary. I cannot possibly understand how fraternity can be legally enforced without liberty being legally destroyed, and thus justice being legally trampled underfoot.

Legal plunder has two roots: One of them, as I have said before, is in human greed; the other is in false philanthropy.

At this point, I think that I should explain exactly what I mean by the word plunder.[3]

PLUNDER VIOLATES OWNERSHIP

I do not, as is often done, use the word in any vague, uncertain, approximate, or metaphorical sense. I use it in its scientific acceptance—as expressing the idea opposite to that of property [wages, land, money, or whatever]. When a portion of wealth is transferred from the person who owns it—without his consent and without compensation, and whether by force or by fraud—to anyone who does not own it, then I say that property is violated; that an act of plunder is committed.

I say that this act is exactly what the law is supposed to suppress, always and everywhere. When the law itself commits this act that it is supposed to suppress, I say that plunder is still committed, and I add that from the point of view of society and welfare, this agression against right is even worse. In this case of legal plunder, however, the person who receives the benefits is not responsible for the act of plundering. The responsibility for this legal plunder rests with the law, the legislator, and society itself. Therein lies the political danger.

It is to be regretted that the word plunder is offensive. I have tried in vain to find an inoffensive word, for I would not at any time—especially now—wish to add an irritating word to our dissentions. Thus, whether I am believed or not, I declare that I do not mean to attack the intentions or the morality of anyone. Rather, I am attacking an idea which I believe to be false; a system which appears to me to be unjust; an injustice so independent of personal intentions that each of us profits from it without wishing to do so, and suffers from it without knowing the cause of the suffering.

THREE SYSTEMS OF PLUNDER

The sincerity of those who advocate protectionism, socialism, and communism is not here questioned. Any writer who would do that must be influenced by a political spirit or a political fear. It is to be pointed out, however, that protectionism, socialism, and communism are basically the same plant in three different stages of its growth. All that can be said is that legal plunder is more visible in communism because it is complete plunder; and in protectionism because the plunder is limited to specific groups and industries.[4] Thus it follows that, of the three systems, socialism is the vaguest, the most indecisive, and, consequently, the most sincere stage of development.

But sincere or insincere, the intentions of persons are not here under question. In fact, I have already said that legal plunder is based partially on philanthropy, even though it is a false philanthropy.

With this explanation, let us examine the value—the origin and the tendency—of this popular aspiration which claims to accomplish the general welfare by general plunder.

LAW IS FORCE

Since the law organizes justice, the socialists ask why the law should not also organize labor, education, and religion.

Why should not law be used for these purposes? Because it would not organize labor, education, and religion without destroying justice. We must remember that law is force, and that, consequently, the proper functions of the law cannot lawfully extend beyond the proper functions of force.

When law and force keep a person within the bounds of justice, they impose nothing but a mere negation. They oblige him only to abstain from harming others. They violate neither his personality, his liberty, nor his property. They safeguard all of these. They are defensive; they defend equally the rights of all.

LAW IS A NEGATIVE CONCEPT

The harmlessness of the mission performed by law and lawful defense is self-evident; the usefulness is obvious; and the legitimacy cannot be disputed.

As a friend of mine once remarked, this negative concept of law is so true that the statement, the purpose of the law is to cause justice to reign, is not a rigorously accurate statement. It ought to be stated that the purpose of the law is to prevent injustice from reigning. It fact, it is injustice, instead of justice, that has an existence of its own. Justice is achieved only when injustice is absent.

But when the law, by means of its necessary agent, force, imposes upon men a regulation of labor, a method or a subject of education, a religious faith or creed—then the law is no longer negative; it acts positively upon people. It substitutes the will of the legislator for their own wills; the initiative of the legislator for their own initiatives. When this happens, the people no longer need to discuss, to compare, to plan ahead; the law does all this for them. Intel-

[2]Translator's note: At the time this was written. Mr. Bastiat knew that he was dying of tuberculosis. Within a year, he was dead.

[3]Translator's note: The French word used by Mr. Bastiat is spoliation.

[4]If the special privilege of government protection against competition—a monopoly—were granted only to one group in France, the iron workers, for instance, this act would so obviously be legal plunder that it could not last for long. It is for this reason that we see all the protected trades combined into a common cause. They even organize themselves in such a manner as to appear to represent all persons who labor. Instinctively, they feel that legal plunder is concealed by generalizing it.

ligence becomes a useless prop for the people; they cease to be men; they lose their personality, their liberty, their property.

Try to imagine a regulation of labor imposed by force that is not a violation of liberty; a transfer of wealth imposed by force that is not a violation of property. If you cannot reconcile these contradictions, then you must conclude that the law cannot organize labor and industry without organizing injustice.

THE POLITICAL APPROACH

When a politician views society from the seclusion of his office, he is struck by the spectacle of the inequality that he sees. He deplores the deprivations which are the lot of so many of our brothers, deprivations which appear to be even sadder when contrasted with luxury and wealth.

Perhaps the politician should ask himself whether this state of affairs has not been caused by old conquests and lootings, and by more recent legal plunder. Perhaps he should consider this proposition: Since all persons seek well-being and perfection, would not a condition of justice be sufficient to cause the greatest efforts toward progress, and the greatest possible equality that is compatible with individual responsibility? Would not this be in accord with the concept of individual responsibility which God has willed in order that mankind may have the choice between vice and virtue, and the resulting punishment and reward?

But the politician never gives this a thought. His mind turns to organizations, combinations, and arrangements—legal or apparently legal. He attempts to remedy the evil by increasing and perpetuating the very thing that caused the evil in the first place: legal plunder. We have seen that justice is a negative concept. Is there even one of these positive legal actions that does not contain the principle of plunder?

THE LAW AND CHARITY

You say: "There are persons who have no money," and you turn to the law. But the law is not a breast that fills itself with milk. Nor are the lacteal veins of the law supplied with milk from a source outside the society. Nothing can enter the public treasury for the benefit of one citizen or one class unless other citizens and other classes have been forced to send it in. If every person draws from the treasury the amount that he has put in it, it is true that the law then plunders nobody. But this procedure does nothing for the persons who have no money. It does not promote equality of income. The law can be an instrument of equalization only as it takes from some persons and gives to other persons. When the law does this, it is an instrument of plunder.

With this in mind, examine the protective tariffs, subsidies, guaranteed profits, guaranteed jobs, relief and welfare schemes, public education, progressive taxation, free credit, and public works. You will find that they are always based on legal plunder, organized injustice.

THE LAW AND EDUCATION

You say: "There are persons who lack education," and you turn to the law. But the law is not, in itself, a torch of learning which shines its light abroad. The law extends over a society where some persons have knowledge and others do not; where some citizens need to learn, and others can teach. In this matter of education, the law has only two alternatives: It can permit this transaction of teaching-and-learning to operate freely and without the use of force, or it can force human wills in this matter by taking from some of them enough to pay the teachers who are appointed by government to instruct others, without charge. But in this second case, the law commits legal plunder by violating liberty and property.

THE LAW AND MORALS

You say: "Here are persons who are lacking in morality or religion," and you turn to the law. But law is force. And need I point out what a violent and futile effort it is to use force in the matters of morality and religion?

It would seem that socialists, however self-complacent, could not avoid seeing this monstrous legal plunder that results from such systems and such efforts. But what do the socialists do? They cleverly disguise this legal plunder from others—and even from themselves—under the seductive names of fraternity, unity, organization, and association. Because we ask so little from the law—only justice—the socialists thereby assume that we reject fraternity, unity, organization, and association. The socialists brand us with the name individualist.

But we assure the socialists that we repudiate only forced organization, not natural organization. We repudiate the forms of association that are forced upon us, not free association. We repudiate forced fraternity, not true fraternity. We repudiate the artificial unity that does nothing more than deprive persons of individual responsibility. We do not repudiate the natural unity of mankind under Providence.

A CONFUSION OF TERMS

Socialism, like the ancient ideas from which it springs, confuses the distinction between government and society. As a result of this, every time we object to a thing being done by government, the socialists concluded that we object to its being done at all.

We disapprove of state education. Then the socialists say that we are opposed to any education. We object to a state religion. Then the socialists say that we want no religion at all. We object to a state-enforced equality. Then they say that we are against equality. And so on, and so on. It is as if the socialists were to accuse us of not wanting persons to eat because we do not want the state to raise grain.

THE INFLUENCE OF SOCIALIST WRITERS

How did politicians ever come to believe this weird idea that the law could be made to produce what it does not contain—the wealth, science, and religion that, in a positive sense, constitute prosperity? Is it due to the influence of our modern writers on public affairs?

Present-day writers—especially those of the socialist school of thought—base their various theories upon one common hypothesis: They divide mankind into two parts. People in general—with the exception of the writer himself—form the first group. The writer, all alone, forms the second and most important group. Surely this is the weirdest and most conceited notion that ever entered a human brain?

In fact, these writers on public affairs begin by supposing that people have within themselves no means of discernment; no motivation to action. The writers assume that people are inert matter, passive particles, motionless atoms, at best a kind of vegetation indifferent to its own manner of existence. They assume that people are susceptible to being shaped—by the will and hand of another person—into an infinite variety of forms, more or less symmetrical, artistic, and perfected.

Moreover, not one of these writers on governmental affairs hesitates to imagine that he himself—under the title of organizer, discoverer, legislator, or founder—is this will and hand, this universal motivating force, this creative power whose sublime mission is to mold these scattered materials—persons—into a society.

These socialist writers look upon people in the same manner that the gardener views his trees. Just as the gardener capriciously shapes the trees into pyramids, parasols, cubes, vases, fans, and other forms, just so does the socialist writer whimsically shape human beings into groups, series, centers, sub-centers, honeycombs, labor-corps, and other variations. And just as the gardener needs axes, pruning hooks, saws, and shears to shape his trees, just so does the socialist writer need the force that he can find only in law to shape human beings. For this purpose, he devises tariff laws, tax laws, relief laws, and school laws.

THE SOCIALISTS WISH TO PLAY GOD

Socialists look upon people as raw material to be formed into social combinations. This is so true that, if by chance, the socialists have any doubts about the success of these combinations, they will demand that a small portion of mankind be set aside to experiment upon. The popular idea of trying all systems is well known. And one socialist leader has been known seriously to demand that the Constituent Assembly give him a small district with all its inhabitants, to try his experiments upon.

In the same manner, an inventor makes a model before he constructs the full-sized machine; the chemist wastes some chemicals—the farmer wastes some seeds and land—to try out an idea.

But what a difference there is between the gardener and his trees, between the inventor and his machine, between the chemist and his elements, between the farmer and his seeds! And in all sincerity, the socialist thinks that there is the same difference between him and mankind!

It is no wonder that the writers of the nineteenth century look upon society as an artificial creation of the legislator's genius. This idea—the fruit of classical education—has taken possession of all the intellectuals and famous writers of our country. To these intellectuals and writers, the relationship between persons and the legislator appears to be the same as the relationship between the clay and the potter.

Moreover, even where they have consented to recognize a principle of action in the heart of man—and a principle of discernment in man's intellect—they have considered these gifts from God to be fatal gifts. They have thought that persons, under the impulse of these two gifts, would fatally tend to ruin themselves. They assume that if the legislators left persons free to follow their own inclinations, they would arrive at atheism instead of religion, ignorance instead of knowledge, poverty instead of production and exchange.

THE SOCIALISTS DESPISE MANKIND

According to these writers, it is indeed fortunate that Heaven has bestowed upon certain men—governors and legislators—the exact opposite inclinations, not only for their own sake but also for the sake of the rest of the world! While mankind tends toward evil, the legislators yearn for good; while mankind advances toward darkness, the legislators aspire for enlightenment; while mankind is drawn toward vice, the legislators are attracted toward virtue. Since they have decided that this is the true state of affairs, they then demand the use of force

in order to substitute their own inclinations for those of the human race.

Open at random any book on philosophy, politics, or history, and you will probably see how deeply rooted in our country is this idea—the child of classical studies, the mother of socialism. In all of them, you will probably find this idea that mankind is merely inert matter, receiving life, organization, morality, and prosperity from the power of the state. And even worse, it will be stated that mankind tends toward degeneration, and is stopped from this downward course only by the mysterious hand of the legislator. Conventional classical thought everywhere says that behind passive society there is a concealed power called law or legislator (or called by some other terminology that designates some unnamed person or persons of undisputed influence and authority) which moves, controls, benefits, and improves mankind.

A DEFENSE OF COMPULSORY LABOR

Let us first consider a quotation from Bossuet [tutor to the Dauphin in the Court of Louis XIV]:[4]

One of the things most strongly impressed (by whom?) upon the minds of the Egyptians was patriotism. . . . No one was permitted to be useless to the state. The law assigned to each one his work, which was handed down from father to son. No one was permitted to have two professions. Nor could a person change from one job to another. . . . But there was one task to which all were forced to conform: the study of the laws and of wisdom. Ignorance of religion and of the political regulations of the country was not excused under any circumstances. Moreover, each occupation was assigned (by whom?) to a certain district. . . . Among the good laws, one of the best was that everyone was trained (by whom?) to obey them. As a result of this, Egypt was filled with wonderful inventions, and nothing was neglected that could make life easy and quiet.

Thus, according to Bossuet, persons derive nothing from themselves. Patriotism, prosperity, inventions, husbandry, science—all of these are given to the people by the operation of the laws, the rulers. All that the people have to do is to bow to leadership.

A DEFENSE OF PATERNAL GOVERNMENT

Bossuet carries this idea of the state as the source of all progress even so far as to defend the Egyptians against the charge that they rejected wrestling and music. He said:

How is that possible? These arts were invented by Trismegistus [who was alleged to have been Chancellor to the Egyptian god Osiris].

And again among the Persians, Bossuet claims that all comes from above:

One of the first responsibilities of the prince was to encourage agriculture. . . . Just as there were offices established for the regulation of armies, just so were there offices for the direction of farm work. . . . The Persian people were inspired with an overwhelming respect for royal authority.

And according to Bossuet, the Greek people, although exceedingly intelligent, had no sense of personal responsibility; like dogs and horses, they themselves could not have invented the most simple games:

The Greeks, naturally intelligent and courageous, had been early cultivated by the kings and settlers who had come from Egypt. From these Egyptian rulers, the Greek people had learned bodily exercises, foot races, and horse and chariot races. . . . But the best thing that the Egyptians had taught the Greeks was to become docile, and to permit themselves to be formed by the law for the public good.

THE IDEA OF PASSIVE MANKIND

It cannot be disputed that these classical theories [advanced by these latter-day teachers, writers, legislators, economist, and philosophers] held that everything came to the people from a source outside themselves. As another example, take Fenelon [archbishop, author, and instructor to the Duke of Burgundy].

He was a witness to the power of Louis XIV. This, plus the fact that he was nurtured in the classical studies and the admiration of antiquity, naturally caused Fenelon to accept the idea that mankind should be passive; that the misfortunes and the prosperity—vice and virtues—of people are caused by the external influence exercised upon them by the law and the legislators. Thus, in his Utopia of Salentum, he puts men—with all their interests, faculties, desires, and possessions—under the absolute discretion of the legislator. Whatever the issue may be, persons do not decide it for themselves; the prince decides for them. The prince is depicted as the soul of this shapeless mass of people who form the nation. In the prince resides the thought, the foresight, all progress, and the principle of all organization. Thus all responsibility rests with him.

The whole of the tenth book of Fenelon's Telemachus proves this. I refer the reader to it, and content myself with quoting at random from this celebrated work to which, in every other respect, I am the first to pay homage.

SOCIALISTS IGNORE REASON AND FACTS

With the amazing credulity which is typical of the classicists, Fenelon ignores the authority of reason and facts when he attributes the general happiness of the Egyptians, not to their own wisdom but to the wisdom of their kings:

We could not turn our eyes to either shore without seeing rich towns and country estates most agreeably located; fields, never fallowed, covered with golden crops every year; meadows full of flocks; workers bending under the weight of the fruit which the earth lavished upon its cultivators; shepherds who made the echoes resound with the soft notes from their pipes and flutes. "Happy," said Mentor, "is the people governed by a wise king.". . .

Later, Mentor desired that I observe the contentment and abundance which covered all Egypt, where twenty-two thousand cities could be counted. He admired the good police regulations in the cities; the justice rendered in favor of the poor against the rich; the sound education of the children in obedience, labor, sobriety, and the love of the arts and letters; the exactness with which all religious ceremonies were performed; the unselfishness, the high regard for honor, the faithfulness to men, and the fear of the gods which every father taught his children. He never stopped admiring the prosperity of the country. "Happy," said he, "is the people ruled by a wise king in such a manner."

SOCIALISTS WANT TO REGIMENT PEOPLE

Fenelon's idyl on Crete is even more alluring. Mentor is made to say:

All that you see in this wonderful island results from the laws of Minos. The education which he ordained for the children makes their bodies strong and robust. From the very beginning, one accustoms the children to a life of frugality and labor, because one assumes that all pleasures of the senses weaken both body and mind. Thus one allows them no pleasure except that of becoming invincible by virtue, and of acquiring glory. . . . Here one punishes three vices that go unpunished among other people: ingratuude, hypocrisy, and greed. There is no need to punish persons for pomp and dissipation, for they are unknown in Crete. . . . No costly furniture, no magnificent clothing, no delicious feasts, no gilded palaces are permitted.

Thus does Mentor prepare his student to mold and to manipulate—doubtless with the best of intentions—the people of Ithaca. And to convince the student of the wisdom of these ideas, Mentor recites to him the example of Salentum.

It is from this sort of philosophy that we receive our first political ideas! We are taught to treat persons much as an instructor in agriculture teaches farmers to prepare and tend the soil.

A FAMOUS NAME AND AN EVIL IDEA

Now listen to the great Montesquieu on this same subject:

To maintain the spirit of commerce, it is necessary that all the laws must favor it. These laws, by proportionately dividing up the fortunes as they are made in commerce, should provide every poor citizen with sufficiently easy circumstances to enable him to work like the others. These same laws should put every rich citizen in such lowered circumstances as to force him to work in order to keep or to gain.

Thus the laws are to to dispose of all fortunes!

Although real equality is the soul of the state in a democracy, yet this is so difficult to establish that an extreme precision in this matter would not always be desirable. It is sufficient that there be established a census to reduce or fix these differences in wealth within a certain limit. After this is done, it remains for specific laws to equalize inequality by imposing burdens upon the rich and granting relief to the poor.

Here again we find the idea of equalizing fortunes by law, by force.

In Greece, there were two kinds of republics, One, Sparta, was military; the other, Athens, was commercial. In the former, it was desired that the citizens be idle; in the latter, love of labor was encouraged.

Note the marvelous genius of these legislators: By debasing all established customs—by mixing the usual concepts of all virtues—they knew in advance that the world would admire their wisdom.

Lycurgus gave stability to his city of Sparta by combining petty thievery with the soul of justice; by combining the most complete bondage with the most extreme liberty; by combining the most atrocious beliefs with the greatest moderation. He appeared to deprive his city of all its resources, arts, commerce, money, and defenses. In Sparta, ambition went without the hope of material reward. Natural affection found no outlet because a man was neither son, husband, nor father. Even chastity was no longer considered becoming. By this road, Lycurgus led Sparta on to greatness and glory.

This boldness which was to found in the institutions of Greece has been repeated in the midst of the degeneracy and corruption of our modern times. An occasional honest legislator has molded a people in whom integrity appears as natural as courage in the Spartans.

[4]Translator's note: The parenthetical expressions and the italicized words throughout this book were supplied by Mr. Bastiat. All subheads and bracketed material were supplied by the translator.

Mr. William Penn, for example, is a true Lycurgus. Even though Mr. Penn had peace as his objective—while Lycurgus had war as his objective—they resemble each other in that their moral prestige over free men allowed them to overcome prejudices, to subdue passions, and to lead their respective people into new paths.

The country of Paraguay furnishes us with another example [of a people who, for their own good, are molded by their legislators].[5]

Now it is true that if one considers the sheer pleasure of commanding to be the greatest joy in life, he contemplates a crime against society; it will, however, always be a noble ideal to govern men in a manner that will make them happier.

Those who desire to establish similar institutions must do as follows: Establish common ownership of property as in the republic of Plato; revere the gods as Plato commanded; prevent foreigners from mingling with the people, in order to preserve the customs; let the state, instead of the citizens, establish commerce. The legislators should supply arts instead of luxuries; they should satisfy needs instead of desires.

A FRIGHTFUL IDEA

Those who are subject to vulgar infatuation may exclaim: "Montesquieu has said this! So it's magnificent! It's sublime!" As for me, I have the courage of my own opinion. I say: What! You have the nerve to call that fine? It is frightful! It is abominable! These random selections from the writings of Montesquieu show that he considers persons, liberties, property—mankind itself—to be nothing but materials for legislators to exercise their wisdom upon.

THE LEADER OF THE DEMOCRATS

Now let us examine Rousseau of this subject. This writer on public affairs is the supreme authority of the democrats. And although he bases the social structure upon the will of the people, he has, to a greater extent than anyone else, completely accepted the theory of the total inertness of mankind in the presence of the legislators:

If it is true that a great prince is rare, then is it not true that a great legislator is even more rare? The prince has only to follow the pattern that the legislator creates. The legislator is the mechanic who invents the machine; the prince is merely the workman who sets it in motion.

And what part do persons play in all this? They are merely the machine that is set in motion. In fact, are they not merely considered to be the raw material of which the machine is made?

Thus the same relationship exists between the legislator and the prince as exists between the agricultural expert and the farmer; and the relationship between the prince and his subjects is the same as that between the farmer and his land. How high above mankind, then, has this writer on public affairs been placed? Rousseau rules over legislators themselves, and teaches them their trade in these imperious terms:

Would you give stability to the state? Then bring the extremes as closely together as possible. Tolerate neither wealthy persons nor beggars.

If the soil is poor or barren, or the country too small for its inhabitants, then turn to industry and arts, and trade these products for the foods that you need. . . . On a fertile soil—if you are short of inhabitants—devote all your attention to agriculture, because this multiplies people; banish the arts, because they only serve to depopulate the nation. . . .

If you have extensive and accessible coast lines, then cover the sea with merchant ships; you will have a brilliant but short existence. If your seas wash only inaccessible cliffs, let the people be barbarous and eat fish; they will live more quietly—perhaps better—and, most certainly, they will live more happily.

In short, and in addition to the maxims that are common to all, every people has its own particular circumstances. And this fact in itself will cause legislation appropriate to the circumstances.

This is the reason why the Hebrews formerly—and, more recently, the Arabs—had religion as their principle objective. The objective of the Athenians was literature; of Carthage and Tyre, commerce; of Rhodes, naval affairs; of Sparta, war; and of Rome, virtue. The author of The Spirit of Laws has shown by what art the legislator should direct his institutions toward each of these objectives. . . . But suppose that the legislator mistakes his proper objective, and acts on a principle different from that indicated by the nature of things? Supports that the selected principle sometimes creates slavery, and sometimes liberty; sometimes wealth, and sometimes population; sometimes peace, and sometimes conquest? This confusion of objective will slowly enfeeble the law and impair the constitution. The state will be subjected to ceaseless agitations until it is destroyed or changed, and invincible nature regains her empire.

But if nature is sufficiently invincible to regain its empire, why does not Rousseau admit that it did not need the legislator to gain it in the first place? Why does he not see that men, by obeying their own instincts, would turn to farming on fertile soil, and to commerce on an extensive and easily accessible coast, without the interference of a Lycurgus or a Solon or a Rousseau who might easily be mistaken.

SOCIALISTS WANT FORCED CONFORMITY

Be that as it may, Rousseau invests the creators, organizers, directors, legislators, and controllers of society with a terrible responsibility. He is, therefore, most exacting with them:

He who would dare to undertake the political creation of a people ought to believe that he can, in a manner of speaking, transform human nature; transform each individual—who, by himself, is a solitary and perfect whole—into a mere part of a greater whole from which the individual will henceforth receive his life and being. Thus the person who would undertake the political creation of a people should believe in his ability to alter man's constitution; to strengthen it; to substitute for the physical and independent existence received from nature, an existence which is partial and moral.[6] In short, the would-be creator of political man must remove man's own forces and endow him with others that are naturally alien to him.

Poor human nature! What would become of a person's dignity if it were entrusted to the followers of Rousseau?

LEGISLATORS DESIRE TO MOLD MANKIND

Now let us examine Raynal on this subject of mankind being molded by the legislator:

The legislator must first consider the climate, the air, and the soil. The resources at his disposal determine his duties. He must first consider his locality. A population living on maritime shores must have laws designed for navigation. . . . If it is an inland settlement, the legislator must make his plans according to the nature and fertility of the soil. . . .

It is especially in the distribution of property that the genius of the legislator will be found. As a general rule, when a new colony is established in any country, sufficient land should be given to each man to support his family. . . .

On an uncultivated island that you are populating with children, you need do nothing but let the seeds of truth germinate along with the development of reason. . . . But when you resettle a nation with a past into a new country, the skill of the legislator rests in the policy of permitting the people to retain no injurious opinions and customs which can possibly be cured and corrected. If you desire to prevent these opinions and customs from becoming permanent, you will secure the second generation by a general system of public education for the children. A prince or a legislator should never establish a colony without first arranging to send wise men along to instruct the youth. . . .

In a new colony, ample opportunity is open to the careful legislator who desires to purify the customs and manners of the people. If he has virtue and genius, the land and the people at his disposal will inspire his soul with a plan for society. A writer can only vaguely trace the plan in advance because it is necessarily subject to the instability of all hypotheses; the problem has many forms, complications, and circumstances that are difficult to foresee and settle in detail.

LEGISLATORS TOLD HOW TO MANAGE MEN

Raynal's instructions to the legislators on how to manage people may be compared to a professor of agriculture lecturing his students: "The climate is the first rule for the farmer. His resources determine his procedure. He must first consider his locality. If his soil is clay, he must do so and so. If his soil is sand, he must act in another manner. Every facility is open to the farmer who wishes to clear and improve his soil. If he is skillful enough, the manure at his disposal will suggest to him a plan of operation. A professor can only vaguely trace this plan in advance because it is necessarily subject to the instability of all hypotheses; the problem has many forms, complications, and circumstances that are difficult to foresee and settle in detail."

Oh, sublime writers! Please remember sometimes that this clay, this sand, and this manure which you so arbitrarily dispose of, are men! They are your equals! They are intelligent and free human beings like yourselves! As you have, they too have received from God the faculty to observe, to plan ahead, to think, and to judge for themselves!

A TEMPORARY DICTATORSHIP

Here is Mably on this subject of the law and the legislator. In the passages preceding the one here quoted, Mably has supposed the laws, due to a neglect of security, to be worn out. He continues to address the reader thusly:

Under these circumstances, it is obvious that the springs of government are slack. Given them a new tension, and the evil will be cured. . . . Think less of punishing faults, and more of rewarding that which you need. In this manner you will restore to your republic the vigor of youth. Because free peo-

[5]Translator's note: What was then known as Paraguay was a much larger area then it is today. It was colonized by the Jesuits who settled the Indians into villages, and generally saved them from further brutalities by the avid conquerors.

[6]Translator's note: According to Rousseau, the existence of social man is partial in the sense that he is henceforth merely a part of society. Knowing himself as such—and thinking and feeling from the point of view of the whole—he thereby becomes moral.

ple have been ignorant of this procedure, they have lost their liberty! But if the evil has made such headway that ordinary governmental procedures are unable to cure it, then resort to an extraordinary tribunal with considerable powers for a short time. The imagination of the citizens needs to be struck a hard blow.

In this manner, Mably continues through twenty volumes.

Under the influence of teaching like this—which stems from classical education—there came a time when everyone wished to place himself above mankind in order to arrange, organize, and regulate it in his own way.

SOCIALISTS WANT EQUALITY OF WEALTH

Next let us examine Condillac on this subject of the legislators and mankind:

My Lord, assume the character of Lycurgus or of Solon. And before you finish reading this essay, amuse yourself by giving laws to some savages in America or Africa. Confine these nomads to fixed dwellings; teach them to tend flocks. . . . Attempt to develop the social consciousness that nature has planted in them. . . . Force them to begin to practice the duties of humanity. . . . Use punishment to cause sensual pleasures to become distasteful to them. Then you will see that every point of your legislation will cause these savages to lose a vice and gain a virtue.

All people have had laws. But few people have been happy. Why is this so? Because the legislators themselves have almost always been ignorant of the purpose of society, which is the uniting of families by a common interest.

Impartiality in law consists of two things: the establishing of equality in wealth and equality in dignity among the citizens. . . . As the laws establish greater equality, they become proportionately more precious to every citizen. . . . When all men are equal in wealth and dignity—and when the laws leave no hope of disturbing this equality—how can men then be agitated by greed, ambition, dissipation, idleness, sloth, envy, hatred, or jealousy?

What you have learned about the republic of Sparta should enlighten you on this question. No other state has ever had laws more in accord with the order of nature; of equality.

THE ERROR OF THE SOCIALIST WRITERS

Actually, it is not strange that during the seventeenth and eighteenth centuries the human race was regarded as insert matter, ready to receive everything—form, face, energy, movement, life—from a great prince or a great legislator or a great genius. These centuries were nourished on the study of antiquity. And antiquity presents everywhere—in Egypt, Persia, Greece, Rome—the spectacle of a few men molding mankind according to their whims, thanks to the prestige of force and of fraud. But this does not prove that this situation is desirable. It proves only that since men and society are capable of improvement, it is naturally to be expected that error, ignorance, despotism, slavery, and superstition should be greatest towards the origins of history. The writers quoted above were not in error when they found ancient institutions to be such, but they were in error when they offered them for the admiration and imitation of future generations. Uncritical and childish conformists, they took for granted the grandeur, dignity, morality, and happiness of the artificial societies of the ancient world. They did not understand that knowledge appears and grows with the passage of time; and that in proportion to this growth of knowledge, might takes the side of right, and society regains possession of itself.

WHAT IS LIBERTY?

Actually, what is the political struggle that we witness? It is the instinctive struggle of all people toward liberty. And what is this liberty, whose very name makes the heart beat faster and shakes the world? Is it not the union of all liberties—liberty of conscience, of education, of association, of the press, of travel, of labor, of trade? In short, is not liberty the freedom of every person to make full use of his faculties, so long as he does not harm other persons while doing so? Is not liberty the destruction of all despotism—including, of course, legal despotism? Finally, is not liberty the restricting of the law only to its rational sphere of organizing the right of the individual to lawful self-defense; of punishing injustice?

It must be admitted that the tendency of the human race toward liberty is largely thwarted, especially in France. This is greatly due to a fatal desire—learned from the teachings of antiquity—that our writers on public affairs have in common: They desire to set themselves above mankind in order to arrange, organize, and regulate it according to their fancy.

PHILANTHROPIC TYRANNY

While society is struggling toward liberty, these famous men who put themselves at its head are filled with the spirit of the seventeenth and eighteenth centuries. They think only of subjecting mankind of the philanthropic tyranny of their own social inventions. Like Rousseau, they desire to force mankind docilely to bear this yoke of the public welfare that they have dreamed up in their own imaginations.

This was especially true in 1789. No sooner was the old regime destroyed than society was subjected to still other artificial arrangements, always starting from the same point: the omnipotence of the law.

Listen to the ideas of a few of the writers and politicians during that period:

*Saint-Just*: The legislator commands the future. It is for him to will the good of mankind. It is for him to make men what he wills then to be.

*Robespierre*: The function of government is to direct the physical and moral powers of the nation toward the end for which the commonwealth has come into being.

*Billaud-Varennes*: A people who are to be returned to liberty must be formed anew. A strong force and vigorous action are necessary to destroy old prejudices, to change old customs, to correct depraved affections, to restrict superiluous wants, and to destroy ingrained vices. . . . Citizens, the inflexible austerity of Lycurgus created in firm foundation of the Spartan republic. The weak and trusting character of Solon plunged Athens into slavery. This parallel embraces the whole science of government.

*Le Pelletier*: Considering the extent of human degradation, I am convinced that it is necessary to affect a total regeneration and, if I may so express myself, of creating a new people.

THE SOCIALISTS WANT DICTATORSHIP

Again, it is claimed that persons are nothing but raw material. It is not for them to will their own improvement; they are incapable of it. According to Saint-Just, only the legislator is capable of doing this. Persons are merely to be what the legislator wills them to be. According to Robespierre, who copies Rousseau literally, the legislator begins by decreasing the end for which the commonwealth has come into being. Once this is determined, the government has only to direct the physical and moral forces of the nation toward that end. Meanwhile, the inhabitants of the nation are to remain completely passive. And according to the teachings of Billaud-Varennes, the people should have no prejudices, no affections, and no desires except those authorized by the legislator. He even goes so far as to say that the inflexible austerity of one man is the foundation of a republic.

In cases where the alleged evil is so great that ordinary governmental procedures cannot cure it, Mably recommends a dictatorship to promote virtue: "Resort," he says, "to an extraordinary tribunal with considerable powers for a short time. The imagination of the citizens needs to be struck a hard blow." This doctrine has not been forgotten. Listen to Robespierre:

The principle of the republican government is virtue, and the means required to establish virtue is terror. In our country we desire to substitute morality for selfishness, honesty for honor, principles for customs, duties for manners, the empire or reason for the tyranny of fashion, contempt of vice for contempt of poverty, pride for insolence, greatness of soul for vanity, love of glory for love of money, good people for good companions, merit for intrigue, genius for wit, truth for glitter, the charm of happiness for the boredom of pleasure, the greatness of man for the littleness of the great, a generous, strong, happy people for a good-natured, frivolous, degraded people; in short, we desire to substitute all the virtues and miracles of a republic for all the vices and absurdities of a monarchy.

DICTATORIAL ARROGANCE

At what a tremendous height above the rest of mankind does Robespierre here place himself! And note the arrogance with which he speaks. He is not content to pray for a great reawakening of the human spirit. Nor does he expect such a result from a well-ordered government. No, he himself will remake mankind, and by means of terror.

This mass of rotten and contradictory statements is extracted from a discourse by Robespierre in which he aims to explain the principles of morality which ought to guide a revolutionary government. Note that Robespierre's request for dictatorship is not made merely for the purpose of repelling a foreign invasion or putting down the opposing groups. Rather he wants a dictatorship in order that he may use terror to force upon the country his own principles of morality. He says that this act is only to be a temporary measure preceding a new constitution. But in reality, he desires nothing short of using terror to extinguish from France selfishness, honor, customs, manners, fashion, vanity, love of money, good companionship, intrigue, wit, sensuousness, and poverty. Not until he, Robespierre, shall have accomplished these miracles, as he so rightly calls them, will he permit the law to reign again.[7]

THE INDIRECT APPROACH TO DESPOTISM

Usually, however, these gentlemen—the reformers, the legislators, and the writers on public affairs—do not desire to impose direct despotism upon mankind. On no, they are

[7]At this point in the original French text, Mr. Bastiat pauses and speaks thusly to all do-gooders and would-be rulers of mankind: "Ah, you miserable creatures! You who think that you are so great! You who judge humanity to be so small! You who wish to reform everything! Why don't you reform yourselves? That task would be sufficient enough."

too moderate and philanthropic for such direct action. Instead, they turn to the law for this despotism, this absolutism, this omnipotence. They desire only to make the laws.

To show the prevalence of this queer idea in France, I would need to copy not only the entire works of Mably, Raynal, Rousseau, and Fenelon—plus long extracts from Bossuet and Montequieu—but also the entire proceedings of the Convention. I shall do no such thing; I merely refer the reader to them.

NAPOLEON WANTED PASSIVE MANKIND

It is, of course, not at all surprising that this same idea should have greatly appealed to Napoleon. He embraced it ardently and used it with vigor. Like a chemist, Napoleon considered all Europe to be material for his experiments. But, in due course, this material reacted against him.

At St. Helena, Napoleon—greatly disillusioned—seemed to recognize some initiative in mankind. Recognizing this, he became less hostile to liberty. Nevertheless, this did not prevent him from leaving this lesson to his son in his will: "To govern is to increase and spread morality, education, and happiness."

After all this, it is hardly necessary to quote the same opinions from Morelly, Babeuf, Owen, Saint-Simon, and Fourier. Here are, however, a few extracts from Louis Blanc's book on the organization of labor: "In our plan, society receives its momentum from power."

Now consider this: The impulse behind this momentum is to be supplied by the plan of Louis Blanc; his plan is to be forced upon society; the society referred to is the human race. Thus the human race is to receive its momentum from Louis Blanc.

Now it will be said that the people are free to accept or to reject this plan. Admittedly, people are free to accept or to reject advice from whomever they wish. But this is not the way in which Mr. Louis Blanc understands the matter. He expects that his plan will be legalized, and thus forcibly imposed upon the people by the power of the law:

In our plan, the state has only to pass labor laws (nothing else?) by means of which industrial progress can and must proceed in complete liberty. The state merely places society on an incline (that is all?). Then society will slide down this incline by the mere force of things, and by the natural workings of the established mechanism.

But what is this incline that is indicated by Mr. Louis Blanc? Does it not lead to an abyss? (No, it leads to happiness.) If this is true, then why does not society get to there of its own choice? (Because society does not know what it wants; it must be propelled.) What is to propel it? (Power.) And who is to supply the impulse for this power? (Why, the inventor of the machine—in this instance, Mr. Louis Blanc.)

THE VICIOUS CIRCLE OF SOCIALISM

We shall never escape from this circle: the idea of passive mankind, and the power of the law being used by a great man to propel the people.

Once on this incline, will society enjoy some liberty? (Certainly.) And what is liberty, Mr. Louis Blanc?

Once and for all, liberty is not only a mere granted right; it is also the power granted to a person to use and to develop his faculties under a reign of justice and under the protection of the law.

And this is no pointless distinction; its meaning is deep and its consequences are difficult to estimate. For once it is agreed that a person, to be truly free, must have the power to use and develop his faculties, then it follows that every person has a claim on society for such education as will permit him to develop himself. It also follows that every person has a claim on society for tools of production, without which human activity cannot be fully effective. Now by what action can society give to every person the necessary education and the necessary tools of production, if not by the action of the state?

Thus, again, liberty is power. Of what does this power consist? (Of being educated and of being given the tools of production.) Who is to give the education and the tools of production? (Society, which owes them to everyone.) By what action is society to give tools of production to those who do not own them? (Why, by the action of the state.) And from whom will the State take them?

Let the reader answer that question. Let him also notice the direction in which this is taking us.

THE DOCTRINE OF THE DEMOCRATS

The strange phenomenon of our times—one which will probably astound our descendants—is the doctrine based on this triple hypothesis: the total inertness of mankind, the omnipotence of the law, and the infallibility of the legislator. These three ideas form the sacred symbol of those who proclaim themselves totally democratic.

The advocates of this doctrine also profess to be social. So far as they are democratic, they place unlimited faith in mankind. But so far as they are social, they regard mankind as little better than mud. Let us examine this contrast in greater detail.

What is the attitude of the democrat when political rights are under discussion? How does he regard the people when a legislator is to be chosen? Ah, then it is claimed that the people have an instinctive wisdom; they are gifted with the finest perception; their will is always right; the general will cannot err; voting cannot be too universal.

When it is time to vote, apparently the voter is not to be asked for any guarantee of his wisdom. His will and capacity to choose wisely are taken for granted. Can the people be mistaken? Are we not living in an age of enlightenment? What! are the people always to be kept on leashes? Have they not won their rights by great effort and sacrifice? Have they not given ample proof of their intelligence and wisdom? Are they not adults? Are they not capable of judging for themselves? Do they not know what is best for themselves? Is there a class or a man who would be so bold as to set himself above the people, and judge and act for them? No, no, the people are and should be free. They desire to manage their own affairs, and they shall do so.

But when the legislator is finally elected—ah! then indeed does the tone of his speech undergo a radical change. The people are returned to passiveness, inertness, and unconsciences; the legislator enters into omnipotence. Now it is for him to initiate, to direct, to propel, and to organize. Mankind has only to submit; the hour of despotism has struck. We now observe this fatal idea: The people who, during the election, were so wise, so moral, and so perfect, now have no tendencies whatever; or if they have any, they are tendencies that lead downward into degradation.

THE SOCIALIST CONCEPT OF LIBERTY

But ought not the people be given a little liberty?

But Mr. Considerant has assured us that liberty leads inevitably to monopoly!

We understand that liberty means competition. But according to Mr. Louis Blanc, competition is a system that ruins the businessmen and exterminates the people. It is for this reason that free people are ruined and exterminated in proportion to their degree of freedom. (Possibly Mr. Louis Blanc should observe the results of competition in, for example, Switzerland, Holland, England, and the United States.)

Mr. Louis Blanc also tells us that competition leads to monopoly. And by the same reasoning, he thus informs us that low prices lead to high prices; that competition drives production to destructive activity; that competition drains away the sources of purchasing power; that competition forces an increase in production while, at the same time, it forces a decrease in consumption. From this, it follows that free people produce for the sake of not consuming; that liberty means oppression and madness among the people; and that Mr. Louis Blanc absolutely must attend to it.

SOCIALISTS FEAR ALL LIBERTIES

Well, what liberty should the legislators permit people to have? Liberty of conscience? (But if this were permitted, we would see the people taking this opportunity to become atheists.)

Then liberty of education? (But parents would pay professors to teach their children immorality and falsehoods; besides, according to Mr. Thiers, if education were left to national liberty, it would cease to be national, and we would be teaching our children the ideas of the Turks or Hindus; whereas, thanks to this legal despotism over education, our children now have the good fortune to be taught the noble ideas of the Romans.)

Then liberty of labor? (But that would mean competition which, in turn, leaves production unconsumed, ruins businessmen, and exterminates the people.)

Perhaps liberty of trade? (But everyone knows—and the advocates of protective tariffs have proved over the over again—that freedom of trade ruins every person who engages in it, and that it is necessary to suppress freedom of trade in order to prosper.)

Possibly then, liberty of association? (But, according to socialist doctrine, true liberty and voluntary association are in contradiction to each other, and the purpose of the socialists is to suppress liberty of association precisely in order to force people to associate together in true liberty.)

Clearly then, the conscience of the social democrats cannot permit persons to have any liberty because they believe that the nature of mankind tends always toward every kind of degradation and disaster. Thus, of course, the legislators must make plans for the people in order to save them for themselves.

This line of reasoning brings us to a challenging question: If people are as incapable, as immoral, and as ignorant as the politicians indicate, then why is the right of these same people to vote defended with such passionate insistence?

THE SUPERMAN IDEA

The claims of these organizers of humanity raise another question which I have often asked them and which, so far as I know, they have never answered: If the natural tendencies of mankind are so bad that it is not safe to permit people to be free, how is it that the tendencies of these organizers are always good? Do not the legislators and their appointed agents also belong to the human race? Or do they believe that they them-

selves are made of a finer clay than the rest of mankind? The organizers maintain that society, when left undirected, rushes headlong to its inevitable destruction because the instincts of the people are so perverse. The legislators claim to stop this suicidal course and to give it a saner direction. Apparently, then, the legislators and the organizers have received from Heaven an intelligence and virtue that place them beyond and above mankind; if so, let them show their titles to this superiority.

They would be the shepherds over us, their sheep. Certainly such an arrangement presupposes that they are naturally superior to the rest of us. And certainly we are fully justified in demanding from the legislators and organizers proof of this natural superiority.

THE SOCIALISTS REJECT FREE CHOICE

Please understand that I do not dispute their right to invent social combinations, to advertise them, to advocate them, and to try them upon themselves, at their own expense and risk. But I do dispute their right to impose these plans upon us by law—by force—and to compel us to pay for them with our taxes.

I do not insist that the supporters of these various social schools of thought—the Proudhonists, the Cabetists, the Fourierists, the Universitarists, and the Protectionists—renounce their various ideas. I insist only that they renounce this one idea that they have in common: They need only to give up the idea of *forcing* us to acquiesce to their groups and series, their socialized projects, their free-credit banks, their Gracco-Roman concept of morality, and their commercial regulations. I ask only that we be permitted to decide upon these plans for ourselves; that we not be forced to accept them, directly or indirectly, if we find them to be contrary to our best interests or repugnant to our consciences.

But these organizers desire access to the tax funds and to the power of the law in order to carry out their plans.

In addition to being oppressive and unjust, this desire also implies the fatal supposition that the organizer is infallible and mankind is incompetent. But, again, if persons are incompetent to judge for themselves, then why all this talk about universal suffrage?

THE CAUSE OF FRENCH REVOLUTIONS

This contradiction in ideas is, unfortunately but logically, reflected in events in France. For example, Frenchmen have led all other Europeans in obtaining their rights—or, more accurately, their political demands. Yet this fact has in no respect prevented us from becoming the most governed, the most regulated, the most imposed upon, the most harnessed, and the most exploited people in Europe. France also leads all other nations as the one where revolutions are constantly to be anticipated. And under the circumstances, it is quite natural that this should be the case.

And this will remain the case so long as our politicians continue to accept this idea that has been so well expressed by Mr. Louis Blanc: "Society receives its momentum from power." This will remain the case so long as human beings with feelings continue to remain passive; so long as they consider themselves incapable of bettering their prosperity and happiness by their own intelligence and their own energy; so long as they expect everything from the law; in short, so long as they imagine that their relationship to the state is the same as that of the sheep to the shepherd.

THE ENORMOUS POWER OF GOVERNMENT

As long as these ideas prevail, it is clear that the responsibility of government is enormous. Good fortune and bad fortune, wealth and destitution, equality and inequality, virtue and vice—all then depend upon political administration. It is burdened with everything, it undertakes everything, it does everything; therefore it is responsible for everything.

If we are fortunate, then government has a claim to our gratitude; but if we are unfortunate, then government must bear the blame. For are not our persons and property now at the disposal of government? Is not the law omnipotent?

In creating a monopoly of education, the government must answer to the hopes of the fathers of families who have thus been deprived of their liberty; and if these hopes are shattered, whose fault is it?

In regulating industry, the government has contracted to make it prosper; otherwise it is absurd to deprive industry of its liberty. And if industry now suffers, whose fault is it?

In meddling with the balance of trade by playing with tariffs, the government thereby contracts to make trade prosper; and if this results in destruction instead of prosperity, whose fault is it?

In giving the maritime industries protection in exchange for the liberty, the government undertakes to make them profitable; and if they become a burden to the taxpayers, whose fault is it?

Thus there is not a grievance in the nation for which the government does not voluntarily make itself responsible. It is surprising, then, that every failure increases the threat of another revolution in France?

And what remedy is proposed for this? To extend indefinitely the domain of the law; that is, the responsibility of government.

But if the government undertakes to control and to raise wages, and cannot do it; if the government undertakes to care for all who may be in want, and cannot do it; if the government undertakes to support all unemployed workers, and cannot do it; if the government undertakes to lend interest-free money to all borrowers, and cannot do it; if, in these words that we regret to say escaped from the pen of Mr. de Lamartine, "The state considers that its purpose is to enlighten, to develop, to enlarge, to strengthen, to spiritualize, and to sanctify the soul of the people"—and if the government cannot do all of these things, what then? Is it not certain that after every government failure—which, alas! is more than probable—there will be an equally inevitable resolution?

POLITICS AND ECONOMICS

[Now let us return to a subject that was briefly discussed in the opening pages of this thesis: the relationship of economics and of politics—political economy.[8]]

A science of economics must be developed before a science of politics can be logically formulated. Essentially, economics is the science of determining whether the interests of human beings are harmonious or antagonistic. This must be known before a science of politics can be formulated to determine the proper functions of government.

Immediately following he development of a science of economics, and at the very beginning of the formulation of a science of politics, this all-important question must be answered: What is law? What ought it to be? What is its scope; its limits? Logically, at what point do the just powers of the legislator stop?

I do not hesitate to answer: Law is the common force organized to act as an obstacle to injustice. In short, law is justice.

PROPER LEGISLATIVE FUNCTIONS

It is not true that the legislator has absolute power over our persons and property. The existence of persons and property preceded the existence of the legislator, and his function is only to guarantee their safety.

It is not true that the function of law is to regulate our consciences, our ideas, our wills, our education, our opinions, our work, our trade, our talents, or our pleasures. The function of law is to protect the free exercise of these rights, and to prevent any person from interfering with the free exercise of these same rights by any other person.

Since law necessarily requires the support of force, its lawful domain is only in the areas where the use of force is necessary. This is justice.

Every individual has the right to use force for lawful self-defense. It is for this reason that the collective force—which is only the organized combination of the individual forces—may lawfully be used for the same purpose; and it cannot be used legitimately for any other purpose.

Law is solely the organization of the individual right of self-defense which existed before law was formalized. Law is justice.

LAW AND CHARITY ARE NOT THE SAME

The mission of the law is not to oppress persons and plunder them of their property, even though the law may be acting in a philanthropic spirit. Its mission is to protect persons and property.

Furthermore, it must not be said that the law may be philanthropic if, in the process, it refrains from oppressing persons and plundering them of their property; this would be a contradiction. The law cannot avoid having an effect upon persons and property; and if the law acts in any manner except to protect them, its actions then necessarily violate the liberty of persons and their right to own property.

The law is justice—simple and clear, precise and bounded. Every eye can see it, and every mind can grasp it; for justice is measurable, immutable, and unchangeable. Justice is neither more than this nor less than this.

If you exceed this proper limit—if you attempt to make the law religious, fraternal, equalizing, philanthropic, industrial, literary, or artistic—you will then be lost in an uncharted territory, in vagueness and uncertainty, in a forced utopia or, even worse, in a multitude of utopias, each striving to seize the law and impose it upon you. This is true because fraternity and philanthropy, unlike justice, do not have precise limits. Once started, where will you stop? And where will the law stop itself?

THE HIGH ROAD TO COMMUNISM

Mr. de Saint-Cricq would extend his philanthropy only to some of the industrial groups; he would demand that the law control the consumers to benefit the producers.

Mr. Considerant would sponsor the cause of the labor groups; he would use the law to secure for them a guaranteed minimum of clothing, housing, food, and all other necessities of life.

Mr. Louis Blanc would say—and with reason—that these minimum guarantees are merely the beginning of complete fraternity; he would say that the law should give tools of production and free education to all working people.

[8]Translator's note: Mr. Bastiat has devoted three other books and several articles to the development of the ideas contained in the three sentences of the following paragraph.

Another person would observe that this arrangement would still leave room for inequality; he would claim that the law should give to everyone—even in the most inaccessible hamlet—luxury, literature, and art.

All of these proposals are the high road to communism; legislation will then be—in fact, it already is—the battlefield for the fantasies and greed of everyone.

THE BASIS FOR STABLE GOVERNMENT

Law is justice. In this proposition a simple and enduring government can be conceived. And I defy anyone to say how even the thought of revolution, of insurrection, of the slightest uprising could arise against a government whose organized force was confined only to suppressing injustice.

Under such a regime, there would be the most prosperity—and it would be the most equally distributed. As for the sufferings that are inseparable from humanity, no one would even think of accusing the government for them. This is true because, if the force of government were limited to suppressing injustice, then government would be as innocent of these sufferings as it is now innocent of changes in the temperature.

As proof of this statement, consider this question: Have the people ever been known to rise against the Court of Appeals, or mob a Justice of the Peace, in order to get higher wages, free credit, tools of production, favorable tariffs, or government-created jobs? Everyone knows perfectly well that such matters are not within the jurisdiction of the Court of Appeals or a Justice of the Peace. And if government were limited to its proper functions, everyone would soon learn that these matters are not within the jurisdiction of the law itself.

But make the laws upon the principle of fraternity—proclaim that all good, and all bad, stem from the law; that the law is responsible for all individual misfortunes and all social inequalities—then the door is open to an endless succession of complaints, irritations, troubles, and revolutions.

JUSTICE MEANS EQUAL RIGHTS

Law is justice. And it would indeed be strange if law could properly be anything else. Is not justice right? Are not rights equal? By what right does the law force me to conform to the social plans of Mr. Mimerel, Mr. de Melun, Mr. Thiers, or Mr. Louis Blanc? If the law has a moral right to do this, why does it not, then, force these gentlemen to submit to my plans? Is it logical to suppose that nature has not given me sufficient imagination to dream up a utopia also? Should the law choose one fantasy among many, and put the organized force of government at its service only?

Law is justice. And let it not be said—as it cotinually is said—that under this concept, the law would be atheistic, individualistic, and heartless; that it would make mankind in its own image. This is an absurd conclusion, worthy only of those worshippers of government who believe that the law is mankind.

Nonsense. Do those worshippers of government believe that free persons will cease to act? Does it follow that if we receive no energy from the law, we shall receive no energy at all? Does it follow that if the law is restricted to the function of protecting the free use of our faculties, we will be unable to use our faculties? Suppose that the law does not force us to follow certain forms of religion, or systems of association, or methods of education, or regulations of labor, or regulations of trade, or plans for charity; does it then follow that we shall eagerly plunge into atheism, hermitary, ignorance, misery, and greed? If we are free, does it follow that we shall no longer recognize the power and goodness of God? Does it follow that we shall then cease to associate with each other, to help each other, to love and succor our unfortunate brothers, to study the secrets of nature, and to strive to improve ourselves to the best of our abilities?

THE PATH TO DIGNITY AND PROGRESS

Law is justice. And it is under the law of justice—under the reign of right; under the influence of liberty, safety, stability, and responsibility—that every person will attain his real worth and the true dignity of his being. It is only under this law of justice that mankind will achieve—slowly, no doubt, but certianly—God's design for the orderly and peacefull progress of humanity.

It seems to me that this is theoretically right, for whatever the question under discussion—whether religious, philosophical, political, or economic; whether it concerns prosperity, morality, equality, right, justice, progress, responsibility, cooperation, property, labor, trade, capital, wages, taxes, population, finance, or government—at whatever point on the scientific horizon I begin my researches, I invariably reach this one conclusion: The solution to the problems of human relationships is to be found in liberty.

PROOF OF AN IDEA

And does not experience prove this? Look at the entire world. Which countries contain the most peaceful, the most moral, and the happiest people? Those people are found in the countries where the law least interferes with private affairs; where government is least felt; where the individual has the greatest scope, and free opinion the greatest influence; where administrative powers are fewest and simplest; where taxes are lightest and most nearly equal, and popular discontent the least excited and the least justifiable; where individuals and groups most actively assume their responsibilities, and, consequently, where the morals of admittedly imperfect human beings are constantly improving; where trade, assemblies, and associations are the least restricted; where labor, capital, and populations suffer the fewest forced displacements; where mankind most nearly follows its own natural inclinations; where the inventions of men are most nearly in harmony with the laws of God; in short, the happiest, most moral, and most peaceful people are those who most nearly follow this principle: Although mankind is not perfect, still, all hope rests upon the free and voluntary actions of persons within the limits of right; law or force is to be used for nothing except the administration of universal justice.

THE DESIRE TO RULE OVER OTHERS

This must be said: There are too many "great" men in the world—legislators, organizers, do-gooders, leaders of the people, fathers of nations, and so on, and so on. Too many persons place themselves above mankind; they make a career of organizing it, patronizing it, and ruling it.

Now someone will say: "You yourself are doing this very thing."

True. But it must be admitted that I act in an entirely different sense; if I have joined the ranks of the reformers, it is solely for the purpose of persuading them to leave people alone. I do not look upon people as Vancauson looked upon his automaton. Rather, just as the physiologist accepts the human body as it is, so do I accept people as they are. I desire only to study and admire.

My attitude toward all other persons is well illustrated by this story from a celebrated traveler: He arrived one day in the midst of a tribe of savages, where a child had just been born. A crowd of soothsayers, magicians, and quacks—armed with rings, hooks, and cords—surrounded it. One said: "This child will never smell the perfume of a peace-pipe unless I stretch his nostrils." Another said: "He will never be able to hear unless I draw his ear-lobes down to his shoulders." A third said: "He will never see the sunshine unless I slant his eyes." Another said: "He will never stand upright unless I bend his legs." A fifth said: "He will never learn to think unless I flatten his skull."

"Stop," cried the traveler. "What God does is well done. Do not claim to know more than He. God has given organs to this frail creature; let them develop and grow strong by exercise, use, experience, and liberty."

LET US NOW TRY LIBERTY

God has given to men all that is necessary for them to accomplish their destinies. He has provided a social form as well as a human form. And these social organs of persons are so constituted that they will develop themselves harmoniously in the clean air of liberty. Away, then, with quacks and organizers! Away with their rings, chains, hooks, and pincers! Away with their artificial systems! Away with the whims of governmental administrators, their socialized projects, their centralization, their tariffs, their government schools, their state religions, their free credit, their bank monopolies, their regulations, their restrictions, their equalization by taxation, and their pious moralizations!

And now that the legislators and do-gooders have so futilely inflicted so many systems upon society, may they finally end where they should have begun: May they reject all systems, and try liberty; for liberty is an acknowledgment of faith in God and His works.

Mr. SYMMS. Mr. President, I will continue:

The law perverted! And the police powers of the state perverted along with it! The law, I say, not only turned from its proper purpose but made to follow an entirely contrary purpose! The law became the weapon of every kind of greed! Instead of checking crime, the law itself guilty of the evils it is supposed to punish!

If this is true, it is a serious fact, and moral duty requires me to call the attention of my fellow-citizens to it.

LIFE IS A GIFT FROM GOD

We hold from God the gift which includes all others. This gift is life—physical, intellectual, and moral life.

But life cannot maintain itself alone. The Creator of life has entrusted us with the responsibility of preserving, developing, and perfecting it. In order that we may accomplish this, He has provided us with a collection of marvelous faculties. And He has put us in the midst of a variety of natural resources. By the application of our faculties to these natural resources we convert them into products, and use them. This process is necessary in order that life may run its appointed course.

Life, faculties, production—in other words, individuality, liberty, property—this is man. And in spite of the cunning of artful political leaders, these three gifts from God precede all human legislation, and are superior to it.

Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and prop-

erty existed beforehand that caused men to make laws in the first place.

WHAT IS LAW?

What, then, is law? It is the collective organization of the individual right to lawful defense.

Each of us has a natural right—from God—to defend his person, his liberty, and his property. These are the three basic requirements of life, and the preservation of any one of them is completely dependent upon the preservation of the other two. For what are our faculties but the extension of our individuality? And what is property but an extension of our faculties?

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

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

Mr. SYMMS. Mr. President, I continue on with this great work by Frederic Bastiat:

If every person has the right to defend—even by force—his person, his liberty, and his property, then it follows that a group of men have the right to organize and support a common force to protect these rights constantly. Thus the principle of collective right—its reason for existing, its lawfulness—is based on individual right. And the common force that protects this collective right cannot logically have any other purpose or any other mission than that for which it acts as a substitute. Thus, since an individual cannot lawfully use force against the person, liberty, or property of another individual, then the common force—for the same reason—cannot lawfully be used to destroy the person, liberty, or property of individuals or groups.

Such a perversion of force would be, in both cases, contrary to our premise. Force has been given to us to defend our own individual rights. Who will dare to say that force has been given to us to destroy the equal rights of our brothers? Since no individual acting separately can lawfully use force to destroy the rights of others, does it not logically follow that the same principle also applies to the common force that is nothing more than the organized combination of the individual forces?

If this is true, then nothing can be more evident than this: The law is the organization of the natural right of lawful defense. It is the substitution of a common force for individual forces. And this common force is to do only what the individual forces have a natural and lawful right to do: to protect persons, liberties, and properties; to maintain the right of each, and to cause justice to reign over us all.

A JUST AND ENDURING GOVERNMENT

If a nation were founded on this basis, it seems to me that order would prevail among the people, in thought as well as in deed. It seems to me that such a nation would have the most simple, easy to accept, economical, limited, non-oppressive, just, and enduring government imaginable—whatever its political form might be.

Under such an administration, everyone would understand that he possessed all the privileges as well as all the responsibilities of his existence. No one would have any argument with government, provided that his person was respected, his labor was free, and the fruits of his labor were protected against all unjust attack. When successful, we would not have to thank the state for our success. And, conversely, when unsuccessful, we would no more think of blaming the state for our misfortune than would the farmers blame the state because of hail or frost. The state would be felt only by the invaluable blessings of safety provided by this concept of government.

It can be further stated that, thanks to the non-intervention of the state in private affairs, our wants and their satisfactions would develop themselves in a logical manner. We would not see poor families seeking literary instruction before they have bread. We would not see cities populated at the expense of rural districts, nor rural districts at the expense of cities. We would not see the great displacements of capital, labor, and population that are caused by legislative decisions.

The sources of our existence are made uncertain and precarious by these state-created displacements. And, furthermore, these acts burden the government with increased responsibilities.

Mr. President, I find it interesting that Frederic Bastiat wrote these words in 1948 and how pertinent they are to the day that we now live in.

THE COMPLETE PERVERSION OF THE LAW

But, unfortunately, law by no means confines itself to its proper functions. And when it has exceeded its proper functions, it has not done so merely in some inconsequential and debatable matters. The law has gone further than this; it has acted in direct opposition to its own purpose. The law has been used to destroy its own objective: It has been applied to annihilating the justice that it was supposed to maintain; to limiting and destroying rights which its real purpose was to respect. The law has placed the collective force at the disposal of the unscrupulous who wish, without risk, to exploit the person, liberty, and property of others. It has converted plunder into a right, in order to protect plunder. And it has converted lawful defense into a crime, in order to punish lawful defense.

How has this perversion of the law been accomplished? And what have been the results?

The law has been perverted by the influence of two entirely different causes; stupid greed and false philanthropy. Let us speak of the first.

A FATAL TENDENCY OF MANKIND

Self-preservation and self-development are common aspirations among all people. And if everyone enjoyed the unrestricted use of his faculties and the free disposition of the fruits of his labor, social progress would be ceaseless, uninterrupted, and unfailing.

But there is also another tendency that is common among people. When they can, they wish to live and prosper at the expense of others. This is no rash accusation. Nor does it come from a gloomy and uncharitable spirit. The annals of history bear witness to the truth of it: the incessant wars, mass migrations, religious persecutions, universal slavery, dishonesty in commerce, and monopolies. This fatal desire has its origin in the very nature of man—in that primitive, universal, and insuppressible instinct that impels him to satisfy his desires with the least possible pain.

PROPERTY AND PLUNDER

Man can live and satisfy his wants only by ceaseless labor; by the ceaseless application of his faculties to natural resources. This process is the origin of property.

But it is also true that a man may live and satisfy his wants by seizing and consuming the products of the labor of others. This process is the origin of plunder.

Now since man is naturally inclined to avoid pain—and since labor is pain in itself—if follows that men will resort to plunder whenever plunder is easier than work. History shows this quite clearly. And under these conditions, neither religion nor morality can stop it.

When, then, does plunder stop? It stops when it becomes more painful and more dangerous than labor.

It is evident, then, that the proper purpose of law is to use the power of its collective force to stop this fatal tendency to plunder instead of to work. All the measures of the law should protest property and punish plunder.

But, generally, the law is made by one man or one class of men. And since law cannot operate without the sanction and support of a dominating force, this force must be entrusted to those who make the laws.

This, fact, combined with the fatal tendency that exists in the heart of man to satisfy his wants with the least possible effort, explains the almost universal perversion of the law. Thus it is easy to understand how law, instead of checking injustice, becomes the invincible weapon of injustice. It is easy to understand why the law is used by the legislator to destory in varying degree among the rest of the people, their personal independence by slavery, their liberty by oppression, and their property by plunder. This is done for the benefit of the person who makes the law, and in proportion to the power that he holds.

VICTIMS OF LAWFUL PLUNDER

Men naturally rebel against the injustice of which they are victims. Thus, when plunder is organized by law for the profit of those who make the law, all the plundered classes try somehow to enter—by peaceful or revolutionary means—into the making of laws. According to their degree of enlightenment, these plundered classes may propose one of two entirely different purposes when they attempt to attain political power: Either they may wish to stop lawful plunder, or they may wish to share in it.

Woe to the nation when this latter purpose prevails among the mass victims of lawful plunder when they, in turn, seize the power to make laws!

Until that happens, the few practice lawful plunder upon the many, a common practice where the right to participate in the making of law is limited to a few persons. But then, participating in the making of law becomes universal. And then, men seek to balance their conflicting interests by universal plunder. Instead of rooting out the injustices found in society, they make these injustices general. As soon as the plundered classes gain political power, they establish a system of reprisals against other classes. They do not abolish legal plunder. (This objective would demand more enlightenment than they possess.) Instead, they emulate their evil predecessors by participating in this legal plunder, even though it is against their own interests.

It is as if it were necessary, before a reign of justice appears, for everyone to suffer a cruel retribution—some for their evilness, and some for their lack of understanding.

Mr. President, I am going to close by giving the last paragraph of this trea-

tise. I urge my colleagues to review this and to ask their staffs to review this because it is so pertinent to the situation we face today in this great country of ours. Here is a French philosopher and statesman who wrote this book, most of it, in 1848. It is a little treatise. You can see the parallels of the quest towards more Government in the United States of America, more solutions, all the gullible ideas, all the positive, noble ideas. And I impugn no one's motives in the Senate who pushes for Government to solve problems.

Bastiat closes with a little story that I shall share about a traveler who comes upon a group of people who were living out in a more primitive state and his observation of how they wanted to do certain things to improve the life of the people.

He made the observation that these people are already gifted with the right facilities and faculties; that maybe we should just stop trying to change them. We were trying to flatten their heads; slant their eyes; that we could do all these things. He made the point:

"Stop," cried the traveler. "What God does is well done. Do not claim to know more than He. God has given organs to this frail creature; let them develop and grow strong by exercise, use, experience, and liberty."

LET US NOW TRY LIBERTY

God has given to men all that is necessary for them to accomplish their destinies. He has provided a social form as well as human form. And these social organs of persons are so constituted that they will develop themselves harmoniously in the clean air of liberty. Away, then, with quacks and organizers! Away with their artificial systems! Away with the whims of governmental administrators, their socialized projects, their centralization, their tariffs, their government schools, their state religions, their free credit, their bank monopolies, their regulations, their restrictions, their equalization by taxation, and their pious moralizations!

And now that the legislators and do-gooders have so futilely inflicted so many systems upon society, may they finally end where they should have begun: May they reject all systems, and try liberty; for liberty is an acknowledgment of faith in God and His works.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from Oklahoma.

Mr. NICKLES. First, I wish to compliment my friend and colleague, Senator SYMMS from Idaho. I, for one, hate to see him retire from this body. He has made valuable contributions, day in and day out. I had the pleasure of being elected with him 12 years ago to the U.S. Senate.

The speech he has been making today in talking about individual liberty, talking about preserving and protecting individual freedom, is a message that needs to be heard in this body. That is what a lot of people think about the Senate when they think of our forefathers who had the courage and conviction to fight to protect our freedoms. I think of that, and of Senator SYMMS and his unrelenting conviction for trying to protect individual liberty. I compliment him again for his speech, and also for his consistency and steadfastness and his conviction.

There are very few times we have Members of the Senate, and probably for the House as well, that really have conviction on issues; that are not just looking for the weather vane, but they actually have heartfelt convictions that they believe would help make this country better. And certainly Senator SYMMS has exemplified that for the last 12 years. I for one will certainly miss his service and tenure in this body.

Mr. SYMMS. Will my colleague yield? I thank my outstanding colleague from Oklahoma, and the feeling is mutual. I appreciate the work he has done in this body. I look forward to seeing him here in this body for many years to come.

With reference to the book, "Treatise by Bastiat," I have not completed it yet, I say to my colleagues. I am sure many would like to hear the rest of it. If it is necessary, I will come back and read it all personally into the RECORD, although it will be printed in the RECORD. But I thank my colleague.

Mr. NICKLES. I thank my friend.

## THE ENERGY BILL

Mr. NICKLES. Mr. President, this Congress needs to pass an energy bill. This Congress needs to pass a positive energy bill. I have heard many people say we have not had an energy policy in the last 10 or 12 years. We certainly need one.

I think somewhat implied in that is that we had an energy policy in the late seventies. And I will just state yes, we had some energy policies in the late seventies, but they did more harm than good. As a matter of fact they did a lot of damage. We had to make changes. I tell my friend and colleague, who is Presiding Officer, that we had to undo most all the damage that was done in the late seventies because Congress made some serious mistakes. I hope that Congress will not repeat those mistakes.

Congress passed legislation in the late seventies to impose a windfall profits tax which was placed only on domestic production. It was not placed on imports. It was only placed on domestic production.

I tell my friend from New Jersey, maybe they do not have a lot of oil wells in New Jersey, but we have quite a few in Oklahoma, about 80,000-some.

We only placed a tax on domestic production. We did not place it on imports. So we discouraged domestic production and we encouraged imports. That does not make any sense.

This Senator came into office saying we need to repeal the windfall profit tax. It took several years. But we finally did repeal it. So we had to undo some of the damage that was done in that particular piece of legislation that passed in 1980.

We had to undo the price controls on natural gas.

When Congress passed, in 1978, the Natural Gas Policy Act, it placed price controls on 28 different categories of natural gas. That did not make any sense whatsoever. It was a serious mistake. Finally, we repealed it.

Finally, President Bush signed legislation that many people have worked on for 35 years, decontrolling all natural gas. I will tell my colleagues that has been a real benefit for consumers. Gas prices have fallen as a result of that legislation, as many of us said it would.

Many of us happened to believe that the marketplace is much better at setting prices than Congress. Congress certainly set prices with the Natural Gas Policy Act and in effect made some serious mistakes that caused ripples throughout the economy. A lot of people are not aware of the fact that when Congress passed the Natural Gas Policy Act it controlled all prices except for one category of gas, and that was so-called deep gas, gas that was below 15,000 feet. We decontrolled the so-called deep gas and the net result was there was a shortage back in 1978.

We had some real shortages that were not caused by a shortage of natural gas. It was caused by an abundance of regulation. The net result was we had a shortage. When we decontrolled that one category of gas, everybody ran in to drill the so-called deep gas. It is unbelievable to many that it was directed toward that one category.

The point I am making is that then the banks came running in, yes, we will loan money. Gas prices went way up to $9, $10. They went up very rapidly. But then when supply equaled demand, they also fell very rapidly. We had the first big bank failure in some time, not a particularly big bank, but Penn Square Bank in my State of Oklahoma on July 5, 1982. Then following that we had the bank failure of Penn Continental Illinois that had to be bailed out.

Then we had the problems in Seattle with the Sea First Bank. Even Chase Manhattan, as big it was, had to write off very large loans, all of which loans were predicated on loaning money to drill for deep gas that was decontrolled, because Congress did not decontrol all gas. It only decontrolled one category of gas.

Again, that made no sense whatsoever; no economic sense. Congress made a serious mistake. I will mention that it was the Carter administration that supported that. Both the House and Senate were controlled by the Democrats. They made a serious mistake. We have been paying for that and paying for that ever since.

Finally, we eliminated the Natural Gas Policy Act for all practical purposes, and decontrolled natural gas. That has been a positive solution to correcting a previous mistake.

Also, I might mention in the late seventies Congress passed the Synthetic Fuels Corporation Act, creating a massive Federal corporation; we were going to produce synthetic fuel with the Federal Government owning the corporation. Many of us thought that was a serious mistake. We did not need the Federal Government involved in the business, and supported repeal.

Finally, a few years later we were successful in repealing the Synthetic Fuels Corporation Act, although I might mention after we wasted billions and billions of dollars.

So my point is, Mr. President, we need an energy policy. But we need a good energy policy, and we need to pass it this year.

So I call upon my colleagues, while we have a little floor time available, to look at the energy issue that we have before us.

Many of us worked on an energy bill for months. I wish to compliment my colleagues, Senator JOHNSTON from Louisiana, and also Senator WALLOP from Wyoming, for their leadership, because I think we put together a good bill, both in the Senate and I also say coming out of conference. This was not an easy conference. It is a conference that many of us spent many hours in. We did not conclude until, I think, 12:30 in the morning. That would have been Wednesday morning. It was a very long and difficult conference, but one where I believe we came up with a good package, one that needs to pass.

I hope we will be able to bring up the energy package tomorrow, or maybe tonight. Let us get it on the floor and debate it and pass it and have the President sign it.

We had a successful conference dealing with all of the titles of the bill except for the tax title. The House and Senate have yet to have a conference on the tax titles. One particular section of the tax title deals with reform of the alternative minimum tax. We need that. In this Senator's opinion, it is the most important part of the energy bill.

You may ask why do we need that. Well, there is a real depression right now in the drilling industry. Many people are not aware of that, but actually the number of rigs running right now are about 700 some-odd rigs, and that is one of the lowest number we have had running in the last 40-some years. So we need to encourage drilling.

You may ask, why is it so low, and why are we not drilling more than that? The reason is because of the tax changes that were made in 1986. Tax changes in 1986 placed intangible drilling costs as a preference item for alternative minimum tax.

A lot of people in this body do not understand the alternative minimum tax. There are a lot of different preference items. The idea is that we are going to tax income that has been tax exempt to make sure people pay their fair share.

I do not disagree with the theory. Intangible drilling costs are out-of-pocket business expenses incurred in drilling a well. Those are expenses that are expensed, and if anybody is familiar with business, you should not tax expended items. You are supposed to tax net income items. This is not an income item. That is money that is spent on drilling muds and fluids and pipe, and not pipe that is recoverable, pipe that is sunk into the well and mud and comet and other expenditures that cannot be taken and moved to the next well site. It is not something you can amortize over 10 different wells. This is an out-of-pocket business expense that is put into the ground, that is not recovered. So it should be written off that year.

But Congress, in 1986, made a mistake and included intangible drilling costs as a preference item for alternative minimum tax. What does that mean? It means that an independent—which is who does most of the drilling in this country, and certainly makes most of the new finds in this country—has to pay a surcharge or surtax of 24 percent on his expensed items, not on net income items, not on how much money they made off of the oil well, but a 24-percent tax surcharge on an expense. It is just the opposite of the refundable tax credit, or just the opposite of a tax benefit. It is a tax penalty. It needs to be repealed and changed.

I will tell my colleagues that in the bill now pending that passed the Senate, and hopefully the House will concur, I do not think we went far enough. We did not totally repeal the alternative minimum tax on intangible drilling costs. Actually, we did it only for about 40 percent, and it should have been 100 percent. You should not have a tax on an expense. At least that is a big step in the right direction. We have to take the tax penalty off if we are going to be successful in encouraging drilling in the United States.

So I just urge Senator BENTSEN and Senator PACKWOOD, our leaders on the tax committees that are now in Conference in the Senate, to get together with the chairman and ranking member on the House Ways and Means Committee to pass this section. Let us get the energy bill on the floor of the Senate tomorrow and pass the energy bill. We need to pass the energy bill.

A lot of people are not aware that we are still importing today almost 50 percent of our oil needs. They are not aware of the fact that our net balance of payments is over 50 percent for oil. They are not aware of the fact that we are becoming more and more vulnerable all of the time. So we need to pass the bill.

We have a letter from the President, written to Senator DOLE. I will soon insert this into the RECORD.

Mr. President, the President said it well. We have spent months and months, actually, well over a year in this body working together in a bipartisan fashion to pass this bill. We need to pass it. We need to pass it before we adjourn. If we do not adjourn on Monday, that is OK. We need to pass this bill.

So I urge the Members of the tax-writing committees to have their conference, to report out the tax-writing sections of the energy bill so we can take it up on the floor, hopefully on Saturday, Sunday or Monday. This Senator does not care which day but it is important that we pass it before we adjourn.

Mr. President, I ask unanimous consent that the letter from the White House be printed in the RECORD.

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

THE WHITE HOUSE,
*Washington, October 2, 1992.*

Hon. ROBERT DOLE,
*Minority Leader, U.S. Senate,*
*Washington, DC.*

DEAR BOB: I strongly urge the 102nd Congress to pass H.R. 776, legislation implementing my National Energy Strategy, before it adjourns. For the last 18 months, my Administration has worked closely with the Congress to produce comprehensive and balanced energy legislation that will meet the nation's future energy needs and promote economic growth.

The energy bill Conference report will soon come before the Congress. Although the Conference Report does not include everything I wanted in the bill, I strongly support the bipartisan work of the conference. Both Houses of Congress also have demonstrated their support for this legislation. The Senate passed its version on July 30 by a vote of 93–3, and the House passed its version on May 27 by a vote 381–37.

The energy bill is good news for Americans. The legislation will increase conservation efforts, promote domestic renewable resources and alternative fuels, increase competition in the electric utility industry and reduce consumer costs, and remove regulatory barriers to increased use of clean-burning natural gas. The bill also provides much-needed Alternative Minimum Tax (AMT) relief for independent oil and gas producers, thus removing a substantial disincentive to domestic oil and gas production.

The National Energy Strategy has come too far to let the bill fall victim to the rush to adjourn. I strongly urge the Congress to send me a bill that I can sign before it adjourns.

Sincerely,

GEORGE BUSH.

Mr. NICKLES. Mr. President, I yield the floor.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to speak out of order.

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

THE REMARKS OF SENATOR GORE

Mr. LIEBERMAN. Mr. President, there has been a discussion, at times a debate, sometimes substantive and sometimes heated, going on here in the Chamber over the last day about remarks that our colleague from Tennessee, Senator GORE, has made and what underlies them with regard to American policy toward Iraq prior to the outbreak of the Persian Gulf war.

I want to just speak for a very few moments, in the first regard, to try to say some things for the RECORD that I hope will affect what history will think of what the distinguished Senator and our colleague from Tennessee was doing at that time and, second, just to comment briefly and more generally on the so-called "Iraqgate" situation, and what it suggests for our future.

Mr. President, during the week prior to that fateful vote here in this Chamber, I believe on Saturday, January 12, 1991, on the question of whether to authorize the President to take military action to enforce the U.N. resolutions within the Persian Gulf, I spoke at length on more than one occasion to our colleague, the Senator from Tennessee [Mr. GORE] about his thoughts about this.

I can tell you and I want to record for the RECORD that he appreciated the seriousness of the decision, he considered it to be a momentous decision, and he was going at it in a thoughtful way, I might say a painstakingly thoughtful way, having extensive conversations with people on both sides of the question.

I was privileged to have been party to a few of those conversations with him, urging him, along with many others, to support the resolution.

When he reached the decision to support the resolution, he did so, because he thought it was right for America, for the Persian Gulf, for the Middle East, for the world.

In my opinion, the question of when he spoke or how long he spoke—though I am not party to any conversations that he may have had with any other Member of the Senate—was irrelevant to that decision.

If I may say so, looking back at that moment, as will be recalled, as we headed into Thursday or Friday of that week, working as I was alongside the representatives of the President, we were not certain that we had a majority support in this Chamber to authorize the President to take military action in the Persian Gulf.

The decision of Senator GORE to support that resolution was critical. It was pivotal; it was one of the decisions that authorized that war and led to what I believe was not only appropriate action by the President, but probably the finest hour of the Bush Presidency and one of the finest hours in recent American history. We stood for a principle and carried it out, thanks to the bravery and skill of our military. We won the war. We reversed Iraqi aggression.

But the RECORD will note from this Senator, who spent a fair amount of time with Senator GORE that week discussing this question, he made a very serious, thoughtful, and substantive decision, the right decision, I think, but what I want to stress here, made for the right reasons.

Second, and very briefly, Mr. President, though as I have said, I think the assembling of the allied coalition, the carrying out of the Persian Gulf war was probably the finest hour of the Bush Presidency, I regret much that this administration did before the war and afterward and that of course is the subject that has now become known as Iraqgate. I do not need to go over the details of this prewar history of relations between the United States and Iraq. But I do want to suggest that they reveal for us the conflict that runs through the history of American foreign policy and that is between policy and principle, and personality and practicality on the other side.

We are a nation. Someone—I think it was F. Scott Fitzgerald—who said a long time ago—I hope I got this one right—that France is a land, Britain is a people, America is an idea. America is an idea, and that idea is freedom, is democracy.

It is when that idea stands as the guidepost for American foreign policy that we are at our best. I am not naive, Mr. President. I know we live in a world of realities, and there are occasions where real political decision, real politics influence our foreign policy. We were at our best in the Persian Gulf war when we stood for principle.

In the time before the war, I think our foreign policy relations with Iraq were guided not by policy and principle but by a sense of practicality and, if I may say so, personality, feeling that we could convert Saddam; that we could make him into our friend in spite of all the evidence that went on even immediately prior to the war was impossible and his policy was aggressive and not in the interest of the United States, certainly not in the interest of our allies within the Persian Gulf.

Looking back at the last decades—President Truman, President Kennedy, and President Reagan—Presidents who I think conducted foreign policy based primarily on principle, and particularly the great overriding American principles of freedom, freedom politically and freedom economically of free markets, I think the error of our ways prior to Operation Desert Storm and afterward was that we retreated from principle and we acted too much on the basis of personality, practicality, balance of power politics.

Mr. President, I think that is the leasson for us. And, in conclusion, I would say this: I think increasingly as this Presidential campaign has gone on, Governor Clinton has articulated a policy-principle-based American approach to the world and in that he offers us great hope of the kind of leadership that we need, that we want, that makes America great, the kind of leadership that would not have attempted to curry favor with Saddam prior to the war, that would have understood, if I may quote a homey old adage: "When you lie down with dogs, you get up with fleas." That is exactly but in mch more consequential terms what happened prior to the war.

Mr. President, yesterday, Governor Clinton gave a speech on foreign policy in Milwaukee, WI. I quote from two paragraphs of it.

> But in a world where freedom, not tyranny, is on the march, the cynical calculus of pure power politics simply does not compute. It is ill-suited to a new era in which ideas and information are broadcast around the globe before ambassadors can read their cable.
>
> Simple reliance on old balance-of-power strategies cannot bring the same practical success as a foreign policy that draws more generously from American democratic experience and ideals and lights fires in the hearts of millions of freedom-loving people around the world.

I am proud of these words spoken by Governor Clinton yesterday. I think they reflect the lessons that are learned not just from Iraqgate but so much else that has occurred in American history.

I ask unanimous consent that excerpts of the speech given by Governor Clinton in Milwaukee be printed in the RECORD.

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

THE 1992 CAMPAIGN: EXCERPTS FROM SPEECH BY CLINTON ON U.S. ROLE

WASHINGTON, October 1.—Following are excerpts from today's foreign-policy speech by Gov. Bill Clinton in Milwaukee, as transcribed by News Transcripts Inc.:

No American foreign policy can succeed if it neglects our domestic needs. and no American foreign policy can succeed if it slights our commitment to democracy.

The President often takes a lot of credit for Communism's downfall, but fails to recognize that the global democratic revolution actually gave freedom its birth.

He simply does not seem at home in the mainstream pro-democracy tradition of American foreign policy. He shows little regard for the idea that we must have a principled and coherent American purpose in international affairs, something he calls "the vision thing."

Instead, President Bush seems too often to prefer a foreign policy that embraces stability at the expense of freedom, a foreign policy built more on personal relationships with foreign leaders than on consideration of how those leaders acquired and maintained their power.

It is almost as if this Administration were nostalgic for a world of times past, when foreign policy was the exclusive preserve of a few aristocrats. This approach to foreign policy is sometimes described as power politics, to distinguish it from what some contend is

sentimentalism and idealism of a pro-democracy foreign policy.

But in a world where freedom, not tyranny, is on the march, the cynical calculus of pure power politics simply does not compute. It is ill-suited to a new era in which ideas and information are broadcast around the globe before ambassadors can read their cable.

Simple reliance on old balance-of-power strategies cannot bring the same practical success as a foreign policy that draws more generously from American democratic experience and ideals and lights fires in the hearts of millions of freedom-loving people around the world.

STATEMENT OF PURPOSE

Let there be no mistake, this world is still a dangerous place. Military power still matters. And I am committed to maintaining a strong and ready defense. I will use that strength where necessary to defend our vital interests. But power must be accompanied by clear purpose.

Mr. Bush's ambivalence about supporting democracy, his eagerness to defend potentates and dictators, has shown itself time and again.

It has been a disservice not only to our democratic values, but also to our national interest. For in the long run I believe that Mr. Bush's neglect of our democratic ideals abroad could do as much harm as our neglect of our economic needs at home.

Let us look at the record. It reflects an unmistakable pattern in the Bush Administration's foreign policy. Fearing attacks by isolationists in his own party, President Bush was reluctant to offer Boris Yeltsin, Russia's freely elected president, a helping hand. It took a chorus of complaints, culminating with the prodding of another Republican, Richard Nixon, to move him into action on the Russian aid package.

Just weeks before the attempted coup in Moscow, President Bush traveled to Ukraine: There he lectured a people subjected to genocidal starvation in the Stalin era, warning that their aspirations for independence constituted, and I quote, "a suicidal nationalism."

A few months later, the people of Ukraine voted by a huge margin for the immediate and total dissolution of the Soviet Union.

ACTION ON THE BALTICS

For over 40 years, the United States refused to recognize Soviet claims to the Baltic nations: Lithuania, Latvia and Estonia. But when at long last, the moment of Baltic independence came, President Bush suddenly became a reluctant bridegroom.

The United States was 37th among the world's nations to extend diplomatic recognition to these countries. We should have been first.

In the Middle East, I supported the President when it became necessary to evict Saddam Hussein from Kuwait, and I support his decision now to provide air cover to Saddam's Kurdish and Shiite opponents in the north and the south of Iraq.

But I am angered by the Administration's appeasement of Saddam Hussein before the war and disappointed by its callous disregard for democratic principles after the war.

Just this week another friend of freedom, my running mate, Senator Gore, laid out in precise and devastating detail the errors of this Administration in dealing with Saddam Hussein.

President Bush showered Government-backed grain credits and high technology on a regime that had used poison gas on its own people. After the war, Mr. Bush encouraged the Iraqi people to revolt against Saddam Hussein but then abandoned them.

MIDDLE EAST POLICIES

The Adinistration has sometimes treated the conflict between Israel and the Arab states as just another quarrel between religions and nations, rather than one in which the survival of a democratic ally, Israel, has been at stake. I support strongly the peace talks that are under way, and if elected, I will continue without interruption America's role in them.

I also believe that America's policy in the Middle East should be guided by a vision of the region in which Israel and Arab partners are secure in their peace, and where the practices and principles of the personal liberty and governmental accountability are spreading.

STATEMENT OF SENATE MAJORITY LEADER GEORGE J. MITCHELL

Mr. MITCHELL. Mr. President, yesterday, during debate in the Senate, references were made to Senator GORE's vote, and his Senate speech announcing his vote, during debate on the gulf war resolution last year. I was involved in those events.

It is routine practice in the Senate for Senators to discuss with me the timing and length of floor statements. During the debate on the gulf war resolution, I discussed with most Democratic Senators the timing and length of their floor statements, since I controlled the time allotted to those Senators who were in favor of the resolution then pending. My discussions with Senator GORE were similar to my discussions with other Senators.

I discussed the matter with Senator GORE on the Friday evening prior to the Saturday vote. He told me that he had not yet made up his mind on the resolution. I told him that I would make time available to him if he decided to vote for the resolution, but that if he were going to vote against the resolution he would have to talk with Senator DOLE who controlled the time allotted to those Senators who were opposed to the resolution. At no time did Senator GORE suggest that his vote was dependent on floor time made available to him.

My understanding was and is that as of Friday evening he had not made up his mind on the resolution and therefore was arranging time to make his statement however he eventually decided to vote. This was a reasonable and honorable approach. I believe any criticism of Senator GORE on this matter is wholly unfounded.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed as if in morning business.

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

## SENATOR WARREN RUDMAN

Mr. GORTON. Mr. President, it is a matter of regret to this Senator that his tribute to his colleague, the senior Senator from New Hampshire [Mr. RUDMAN] takes place 2 days after that presented to this body by the senior Senator from Maine [Mr. COHEN]. That tribute was so eloquent that any other must pale by comparison. But, nonetheless, an attempt must be made to state the feelings of this Senator about his long-time friend and colleague.

The departure from this body of Senator RUDMAN will leave an aching void in the lives and hearts of his legion of friends and admirers in the U.S. Senate on both sides of the political dividing line, a legion which, in the view of this Member, almost certainly includes every Member of this body.

Nevertheless, for this Senator, that void will be particularly difficult to fill as I believe that I have perhaps known the Senator from New Hampshire over more extended period of time than any or almost any of his other colleagues here.

He and I were attorneys general from our respective States from 1970 in the case of Senator RUDMAN, each of us was devoted to the work of that organization and to what we could learn from one another. Senator RUDMAN became president of the National Association of Attorneys General and was in fact during that Presidency instrumental in helping my candidacy to succeed him after a year or so.

During the time that he served as attorney general of New Hampshire, the now Senator was an aggressive prosecutor of wrongdoing of all types in his State. He was a fearless defender of the interests of consumers of the State of New Hampshire and, in general, of the rights of the people whom he represented in that appointed position.

Mr. RUDMAN resigned after half a decade or more of distinguished service as attorney general to return to the private practice of law, but in a way, with an opportunity that is offered only to a handful of us in positions like that of State attorney general, he was able to see to his successors for several future generations in that office. They included many other distinguished New Hampshire lawyers, including the now Associate Justice of the Supreme Court of the United States, David Souter, whose nomination to that position and whose confirmation by this body were guided in large measure by the skills and advocacy and friendship of Senator RUDMAN.

When he left office as attorney general, I felt that personal loss of friendship very severely. As a consequence, this Senator was delighted when each of us became a candidate for the U.S. Senate in 1980, when we ran together and were elected.

From the time that we were sworn in, early in 1981, we found that we voted as similarly in this body, with or without consultation between ourselves, as, I think, was the case with

any other pair of Members of the U.S. Senate. We often vigorously debated particular issues. But Senator RUDMAN, no matter how strongly he holds views on an issue, is willing to listen to and credit to good faith of those against whom he debates as well as the good faith and intentions of his friends and allies.

Senator RUDMAN served in this body for 12 years as a soaring comet, perhaps most particularly in his vice chairmanship of the Iran-Contra investigating committee with his friend and partner, the Senator from Hawaii, Mr. INOUYE. That investigation was one of the most successful ever conducted by the U.S. Senate. And, for all practical purposes, every fact relevant to a history of that sorry episode was, in fact, determined by that committee and included in its report.

Senator RUDMAN, as well as any Member of this body, has combined that balanced duty of representing the peculiar and particular interests of his own State with the duties incumbent upon any U.S. Senator to act in the public interests of all of the people of this country and of its future.

Senator RUDMAN here, and in the rest of his life, has been a man of passion and a man of action. But passion can be directed at unworthy ends as well as worthy ends. In the case of our friend, that passion has been for justice, that passion has been for fiscal responsibility, that passion has been for the preservation of ordered liberty in the United States of America, that passion has been for a nation he has loved and served extraordinarily well.

Each of us is a better person as a result of his or her associations with the Senator from New Hampshire. Each of us can do far worse in our future careers than to measure ourselves and our performance by the standard he has set and to strive to live and act by his example.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

## THE HUMANITARIAN SITUATION IN SUDAN

Mr. SIMON. Mr. President, a little later on this evening—I hope when we wrap up, it will be cleared—I will be introducing a resolution on behalf of Senator KASSEBAUM, Senator PELL, and Senator HELMS on the situation in the Sudan.

Back as early as January 15, looking at the records, Senator KASSEBAUM and I talked about the situation in Somalia, warning that we were heading for some very grim times.

Unfortunately, until there is media attention on some of these spots, we do not get the attention that we need. Right now, there is attention on Somalia, and I am pleased to say that food is getting in, though it is still a very troubled area where there is more chaos than government and where we need the presence of U.N. troops, at least those that have been authorized, about an additional 3,000, to bring some stability to the situation.

Unfortunately, the situation in the Sudan is another situation that is developing that is a very grim one. If we cannot get U.N. action to bring some sense to the Government there, not only will we have the very severe human rights violations that are taking place in the Sudan, we are going to have massive starvation.

Around Khartoum, the capital city, they have relocated some 500,000 people, who, in desperation, have come from the south. They have relocated them to camps where there is very little water, no means of livelihood, and where the situation is desperate. Perhaps an additional 250,000 will go there shortly.

In Juba, a city in the southern part of Sudan, where we have a civil war going on, the Sudanese army has taken 300,000 people and made them buffers against the opposition forces. And there is danger both of starvation and of people just being wiped out by military action.

A few days ago, we learned that two of the Sudanese employees of USAID were killed for treason. What they were doing was simply delivering food to desperate people and were slain. And we have reports of at least two people, and perhaps four, from voluntary organizations who were down there delivering food to people, who have also been slain. It is a grim situation.

Our resolution urges that this be brought to the Security Council. We urge the Secretary General, who has been doing a good job, to do what he can to try to bring some sense and some leverage on the Government of the Sudan.

We do not want the Sudan to turn out to be as bad a situation as we have in Somalia right now. But right now, it is grim.

I have just been handed a note by a page that Senator LEVIN would like to be added as a cosponsor on the resolution, and Senator BRADLEY, the Presiding Officer, who has shown an interest in these areas, also wants to be added as a cosponsor.

I ask unanimous consent that both be added as cosponsors.

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

Mr. SIMON. Mr. President, I would add that the general situation in Africa is one of hope, despite Somalia, despite what is happening in the Sudan. Democracy is spreading in Africa. It is one of the little-known realities of our world. But the economic problems are overwhelming. Africa has had an increase of 50 percent in population over the last 20 years, and a drop of 20 percent in food production.

I just see my colleague, Senator LEAHY coming through. Senator LEAHY has been great, as chairman of the appropriations subcommittee, in focusing more attention on Africa. And while there are probably very few people in Africa who know the name of Senator PATRICK LEAHY of Vermont, I for one am very grateful that he has been able to shift a little more attention to the desperate plight of the people of Africa. Since he was coming right through, I wanted to mention that.

Mr. LEAHY. Will the distinguished Senator yield?

Mr. SIMON. I would be pleased to yield to my colleague.

## WORLD HUNGER

Mr. LEAHY. I would say, Mr. President, the distinguished Senator and his subcommittee have brought the plight of Africa, and the issues of food and starvation, not only to my attention but to the attention of many, many other Senators.

I would compliment him on the work that he has done. We have many demands, in the Appropriations Committee. Certain demands, though, are not of a strategic or economic nature, but more of a real moral imperative. The Senator from Illinois has stressed the fact over and over again, that this Nation, with our relatively small world population but our enormous use of world resources, have moral responsibilities in other parts of the world.

I thank him for his praise; it is high praise indeed. But nobody could praise enough, the work the Senator from Illinois has done.

Mr. SIMON. I thank my colleague for his generous remarks.

Mr. President, I yield the floor. I see my distinguished and colorful colleague from Montana is seeking the floor. I am pleased to yield the floor to him.

Let me just add, later this evening, as I think I indicated earlier, I believe our resolution will be adopted.

My colleague from Montana has also shown an interest in these problems, and I appreciate it.

## APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. If the Senator will suspend, the Chair, on behalf of the Republican leader, pursuant to Public Law 102-325, appoints the following Senators as members of the National Commission on the Cost of Higher Education:

The Senator from Vermont [Mr. JEFFORDS], from the Committee on Labor and Human Resources; and

The Senator from Mississippi [Mr. COCHRAN], from the Appropriations Committee.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 93-29, as amended by Public Law 98-459, appoints to the Federal Council on the Aging:

Rudolph Cleghorn, of Oklahoma; and Stephen M. Farnham, of Maine.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I ask unanimous consent I may be allowed to speak out of order.

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

NATURAL GAS

Mr. BURNS. Mr. President, I thank my friend from Illinois for his comments. I would wear a bow tie if I could get away with it. But I cannot do that. But his work along those humanitarian lines is well known here in the U.S. Senate.

Mr. President, we have finally wrapped up our work on the conference on energy and I think there are some important measures in this energy bill that are of interest to all Americans. There were some things that were dropped from conference, and from the energy bill, that also should be noted at this time.

We, in the conference, dropped the authority to buy back Federal Outer Continental Shelf leases. We leased the Outer Continental Shelf for oil and gas and then the Government went in and put a moratorium on that kind of activity offshore so we still have that liability to take care of. We also dropped the House language, preempting State regulation of natural gas production.

That brings me to a point. This afternoon there was a Montana wilderness bill that originated here in the U.S. Senate, on which Senator BAUCUS and I worked very hard in crafting a compromise and to pass through the Senate. It was then sent to the House. They have had it about 6 months. They chose, in a closing hours of the 102d Congress, to finally act on it.

We will see that final version, probably in conference over the weekend. But in that wilderness bill is action contradictory to what we are trying to do for, not only energy security in this country but also responding to the obligation we have promulgating those activities to directly result in a better environment.

It is pretty much thought among the scientific community and all those people who dealt with the Clean Air Act that compressed natural gas or natural gas will be part of the fuel mix or energy mix in this country. Not only is it clean burning and helps the environment but also we have great reserves of natural gas. That is in parts of my State of Montana. But those same folks who would promote the Clean Air Act and are very concerned about cleaning up the air are the same folks who want to designate thousands and thousands of acres of public lands as wilderness, which precludes any oil or gas—principally gas in our part of the country—development whatsoever.

So there are two different movements here, moving against one another. We have established goals on what we would like to do and what we would like to see in our transportation fuels as far as the air is concerned, but we also take another step and lock up those areas that hold vast amounts of natural gas. There is a contradiction in that.

I want to congratulate Montana and Dakota Utilities up in Montana. Last time I was home we dedicated a compressed natural gas fuel station in Billings. They will have them all over the western part of the Dakotas and the eastern part of Montana as a principal transportation fuel. That is certainly a step in the right direction. Because we will have to depend on that for transportation fuel.

It just does not make sense for this country. If those folks are all excited about our trade deficit—65 percent of the trade deficit in this country is directly attributed to energy purchased offshore. Fifty percent of the oil that we use in this country is now being imported into this country from foreign sources. That leaves us in a very vulnerable position. Whenever we take a look at this country's economy, this country's economic strength is based on our mobility and the way we power our cars—our needs for energy.

We also dropped from that conference report new restrictions on hydroelectric dam licensing. As we progress, increasing our demand for electricity across the country, we will probably have to revisit that issue. How do we become more efficient in producing electricity from water, the cleanest form of producing electricity? In my State of Montana we have ongoing research with MHD and also on the way we can better use our coal reserves which the West has. They are low-sulfur coals, in our coal-powdered electric generating plant. That, too, that research, will have to be ongoing. Of course, in this bill are ways to fund the research that will let that go forward.

If you look at the States of Montana, North Dakota, Wyoming, and in the West, the coal reserves in the West are equal to the oil reserves in the Middle East. We are the Saudi Arabia of the coal industry. It is economical to get to; it is low in sulfur; and research has to go on. We become more efficient and we also deal with the emissions problem of coal-fired generation.

When we start talking about alternative fuels, I think we have to start matching some dollars with industry in the research and development of fuel cells, and I will talk about that in a little bit.

Also, dropped from that bill was the requirement to establish an expensive gasoline and diesel fuel storage in New England. Mr. President, that is not a bad idea. I can sympathize with those folks who live in areas of these United States where we are dependent on imported fuel sources, both in natural gas and heating oil, as we go into the winter, should some disruption happen on the foreign side where oil cannot come into this country and it cannot even go through the refineries, then I will say the States up in the Northeast will have concerns that, yes, maybe there is some way they could set up something that looks like the Strategic Oil Reserve that this country has. But also we deal with problems of turnover and the storage of the refined product or the end product which is very difficult to handle and turn over.

I am aware and I am concerned for those folks in the Northeast who are dependent on those fuels to come in from somewhere else—especially going into the winter—where the majority of their heating oil has to be imported to their States. The same would be true of natural gas.

What was also dropped from this energy bill was the change to the present authority to draw down oil in the Strategic Petroleum Reserve, the SPR, that would increase control of price manipulation by the Federal Government.

That is one of the things that was debated, and we had to go back to the old philosophy of just exactly why was the SPR developed in the first place. The primary reason and the first-tier reason would be for national security, if we had another embargo, and we know that the security of this Nation would be severely undermined if we had to depend on foreign sources again for our energy supplies just to power our Armed Forces.

The SPR never was established and put there to manipulate prices, price spikes. We saw that happen at the opening of the gulf war when many said the President should use the oil that was contained or held in the SPR to be used in order to defuse the price increase.

We have to keep with the philosophy, I think, that was established and that, of course, was for national security.

There are some awfully good things in this energy bill. Energy efficiency: We tried to set some goals and I think we set some goals that we have to be more efficient on all of the energy that we have in this country. It enacts the entire agenda of the past decade's energy efficiency proposals, including those policies that increase the energy efficiency of residential and commercial buildings, appliances and heating and cooling equipment, utilities, and the Federal Government.

I was a little concerned the other day when I saw a figure released that there are now more people working for the Government than we have in manufacturing jobs. I am wondering how long we can stand that kind of a situation.

But there will be new goals and new requirements on what we put into buildings, how we will handle our heating and cooling situations and, yes, how we handle our utilities; that we are more efficient in the power that we use, both the fossil fuels and, yes, of course, electricity.

In this bill also under the natural gas it eliminates certain restrictions on natural gas imports and exports, and it contains a sense-of-Congress provision on competitive wellhead natural gas markets. In other words, do we treat all of our gas suppliers the same?

In the fleet and alternative fuels section, I think the country has to pay a lot of attention to that section because when we start talking about alternative fuels, we are talking about fuels that do not come from a fossil base. It gives the Secretary of Energy authority to require private and municipal fleet programs starting in 1998. It will be applicable to fleets of 20 or more centrally fueled vehicles used primarily in cities of 250,000 or more population if the fleet operator owns 50 or more vehicles.

That sounds kind of funny, but that was the formula that was worked out so the different parts of the country and industry and those folks who depend on fleets to do business can make some sanity of their transition.

There is a phase-in purchase goal started at 20 percent in 1998. What is the use of building a flexible car equipped to burn flexible fuels if there is nobody to buy it? And of course we still have a lot of work to do on that, a lot of technology has to be developed before we can finally get it done.

But the Secretary can set those goals and can get some formula and establish the program by the year 2002. It provides for a Federal fleet program with purchase requirements of 5,000 vehicles in 1993, increasing to 75 percent of the fleet acquisitions in 1999 and after. In other words, the Government, it is going to put mandates on private enterprise then we, too, have to lead the way so that the marketplace will finally be the driving force of these new fuels.

The use of ethanol and methanol as additives to fuels as extenders is a step in the right direction because ethanol is being produced from a renewable resource, the grains across the country. With the announcement of the President yesterday on some waivers, he is going to enable that to happen, we hope, just a little bit quicker than the pace at which it is now going.

We used to say how come we can be in agriculture and farm? If you look at the farm prices, we were selling wheat in 1948 for more dollars a bushel than we are selling it now. Back then a combine cost $7,000. Now it costs $110,000 and, yes, it does more work and it probably does it a little better, but still the price of the grain did not go up with the cost of everything else. It sure did not stay with the retail price of what you pay for bread in the grocery store. For those folks who wonder how that formula works, in an average pound loaf of bread, the wrapper cost more than the wheat that went in it.

Nonetheless, agriculture was produced back then probably with a lot of horsepower. We used horses. What we did is we produced our own fuel on the farm. Then when we mechanized and we had to use tractors and all of the equipment we use today, that requires an off-farm fuel source. Of course, now we see the trend going back. This provides for an alternative fuels program applicable to those who transport and sell alternative fuels and operate large fleets which operate in large cities.

Phase-in purchase requirements start at 30 percent of acquisitions in 1996, increasing to 90 percent in 1999 and thereafter. There, again, it gives a big leeway to the Secretary of Energy to establish some goals and to set up the rules of that transition.

Electric vehicles: We have always heard that they are there, but we do not see them. We do not see them on the street. Maybe we see them going down the fairway on the golf course. That is about the only ones we see so far. But this bill addresses electric vehicles. This provision establishes a comprehensive program for research and development, infrastructure promotion, and vehicle demonstration for electric motor vehicles.

Here we might bring in something else that we overlooked in this bill and the importance of its development and that is a thing called fuel costs. Most of the developed countries around the world are quickly developing this kind of power.

The fuel cell is nothing more than just a big old battery, you might say, developed of coal base and methanol that would probably power your house. You just plug it in, it would run a certain time, and you would change it. But that development is getting awfully close now where the cost can almost compete with other forms of electricity.

Over in the electricity department, and those of you who use electricity, we did not have a very hot summer this summer. Maybe some areas of the country did, but we sure did not. We saw the heavy use of air conditioning. We also have a thing called brownouts. As we move into the winter, that concerns me a little bit. But it is marvelous that the American people will probably put some restrictions on how we produce power and they will not get excited about it until the electric lights go out. Then we will get awfully excited on how we produce our energy and where it comes from and how much can we produce.

But in this bill it removes the obstacles to wholesale power competition in the Public Utility Holding Company Act of 1935 by allowing both utilities and nonutilities to form exempt wholesale generators without triggering the restrictions of the 1935 act.

What that means is that there will be independent power producers that will have to be paid for their power if they can get access to transportation for that power.

The bill contains provisions allowing the FERC, or the Federal Energy Regulatory Commission to order wholesale but not retail transmission access on a case-by-case basis.

And that is good because I think all of your small power producers that want to get in the business of producing power should be reviewed on a case-by-case basis. We try to do it in Congress every day. We try to produce a law of one-size-fits-all, and that just does not work.

Renewable energy establishes a program for Federal support on a competitive basis for renewable energy technologies. There again we go back to our renewable energy sources and how we dealt with that.

And, in coal, new strategies, new moneys for research and development for a variety of advanced coal-based technologies that offer significant potential not only for producing clean fuel for energy and electricity but also for producing coal byproducts that may have considerable commercial value for other uses.

We tried to level the playing field between what we call a low-sulfur coal in parts of Montana, but we also have lignite. We tried to level the playing field so both of those fuels could be used and developed.

Also, in global climate change, it directs EIA to establish a baseline inventory of greenhouse gas emissions, establishes a program for the voluntary reporting of greenhouse gas emissions, and it directs the Secretary to prepare a report analyzing strategies for mitigating or adopting to global climate change including the economic, environmental, social, and competitive implications of such strategies. It directs the Secretary to prepare a least-cost energy strategy for reducing the generation of greenhouse gases.

But I think probably the most important part of this bill as it gets to the President is that we gave the Secretary wide discretion in the use of R&D, research and development moneys in a multitude of areas: natural gas supply, high-efficiency heat engines, oil shale, high-temperature super conducting electric power systems, renewable energy sources, energy efficiency, natural gas, electric heating and cooling tech-

nologies, and also support for post-secondary education programs promoting math and science, education for low-income and first-generation college students. That is to go into this business called energy and keeping this country energy secure.

So it would look to me that this bill which covers so much of America and is so important to America tried to cover all the bases, but yet we will probably leave some uncovered. As we look at energy and energy supply, there is not one thing that is any more key to the security of the country.

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

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

The legislative clerk proceeded to call the roll.

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

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

## ENERGY CONFERENCE

Mr. DOLE. Mr. President, we have but a few days—a few hours really—before the sine die adjournment of the 102d Congress. In the past few days, we have made great progress on the so-called must-do list of bills we need to pass before we leave.

One of the bills on my must do list is the energy bill. The Senate has already passed it twice, and it would be a black mark on this Congress if we leave without providing for a comprehensive strategy on that which truly fuels our economy—energy.

I want to commend the Senate Energy Committee for completing its work with the House in the conference to resolve the differences on the matters under its jurisdiction. Long, arduous hours were spent by our colleagues on the Energy Committee and they deserve our gratitude.

But, Mr. President, one title remains to be resolved in conference—the revenue title and that is under the jurisdiction of the Senate Finance Committee and the House Ways and Means Committee. As a conferee from the Finance Committee I want all my colleagues to know I am prepared to go to work, to go to conference and reach consensus on this title.

Let me remind my colleagues of some of the provisions:

For the oilpatch—the elimination of the alternate minimum tax for intangible drilling costs and percentage depletion allowance for independent oil and gas producers will breath some life back into the industry. We hear a lot of talk about jobs around here, about how our trade deficit is too high, about the economy being stagnant. I have said it many times, but let me repeat it again—over two-thirds—in fact almost 70 percent—of our entire foreign trade deficit is due to imported oil. It is not Sony televisions or Braun coffeemakers that is causing our problem, it is that we import too much oil. This would be a big shot in the arm for our domestic industry, and industry which has lost 450,000 jobs—450,000 jobs of American workers.

In the past, some of my colleagues have suggested offering any assistance to the oil and gas industry is bad public policy, because the oil and gas industry makes too much money. Well, those voices seem to have had their day. Because we now have a tax system under which the oil and gas industry has the highest effective tax rate in the country—over 70 percent. We raised their taxes all right, but we also drove the industry overseas and we have a trade deficit to prove it.

But the energy bill has incentives for other industries as well. We provide for mass transportation benefits, which will reduce congestion on our roadways. We would grant credits for the purchase of clean burning vehicles and the facilities to pump the alternate fuels into those vehicles. The bill makes permanent the investment credit for solar, geothermal, and ocean energy producing facilities.

Mr. President, there are several other similar provisions worthy of our consideration this year. Many of these projects on the drawing board might not make it if they have to wait until next year, and they wouldn't have to wait if we just do our job.

As I said, I am a conferee, and I am ready to meet. The Republican conferees in the Senate and the House are ready to meet. We are ready to strike a blow in favor of American jobs and the American economy. Mr. President, the Republicans are awaiting word on whether our colleagues on the other side of the aisle are ready to do the same.

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

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

## BRETT KIMBERLIN

Mr. LEVIN. Mr. President, as chairman of the Subcommittee on Oversight of Government Management, for the past several months I have been looking into allegations that the Bureau of Prisons silenced a Federal prisoner named Brett Kimberlin for political purposes prior to the 1988 election. My subcommittee staff has prepared a report which summarizes my findings and in short, based on the information that was obtained by my subcommittee staff and based on the refusal of the Justice Department to provide two witnesses to me, I can only conclude that the bureau did act for political purposes with respect to Kimberlin.

I have referred this matter today to the inspector general of the Justice Department for his investigation.

Mr. President, in May of this year, the New York Times ran an article about a 1988 incident involving a Federal prisoner by the name of Brett Kimberlin and allegations that the Bureau of Prisons had tried to silence him for political purposes. Although the article appeared almost 4 years after the incident, it contained information that had recently come to light in a related court case. It was the first time I had read about the Kimberline matter in any detail, and I found it startling.

The Times reported that when Kimberlin began making allegations involving then vice presidential candidate Dan Quayle just before the 1988 election—and the press began to pay attention to those allegations—the Bureau of Prisons took a number of actions to silence him. The Times reported that after calls from the Bush-Quayle campaign to the Justice Department, the Director of the Bureau of Prisons Michael Quinlan took a highly unusual course of action. He personally cancelled a press conference arranged by local prison officials in response to several press requests to interview Kimberlin. He then personally ordered Kimberlin placed in administrative detention, or the hole as it is referred to by the prisoners. Both events took place only days before the November 1988 election.

The prison released Kimberline from detention the following day. But when he later attempted to give an interview to a group of reporters by telephone, the Bureau put Kimberline back into administrative detention for a week, until well after the election. A month later, when the press again began to pay attention to Kimberlin's allegations, the Bureau again returned him to administrative detention.

The Times article suggested that the Bureau of Prisons had violated prison rules in its effort to silence Kimberlin. Such an allegation, if true, would violate our fundamental principle of a fair and open government.

As chairman of the Subcommittee on Oversight of Government Management, I initiated a subcommittee investigation into the facts behind the New York Times article and the Kimberlin detentions. Let me make clear that the focus of this investigation was not to examine the validity of the allegations made by Kimberlin but solely whether, in 1988, the Bureau of Prisons and the Department of Justice engaged in improper conduct in the Kimberlin matter to advance a political purpose.

After my subcommittee staff reviewed press accounts, public docu-

ments in a pending court case filed by Kimberlin against key officials in the Bureau of Prisons and the Department of Justice, and other information, I sent a list of questions to Mr. Quinlan, Mr. Loye Miller who headed the public affairs office of the Department of Justice in 1988, and the Justice Department itself. My questions were not answered specifically or by the person to whom they were addressed; the Justice Department responded in narrative form on behalf of all three addressees.

I responded with a letter identifying the many questions that had not been answered and requesting interviews with Mr. Quilan and Mr. Miller. The Justice Department answered, again on behalf of both Mr. Quinlan and Mr. Miller, denying my request for interviews, but providing some additional information. The additional information did not, however, lay to rest important questions in this matter.

Those questions go to a fundamental concern: guaranteeing that the power of our Federal Government is not used to silence individuals for political purposes.

Without interviewing Mr. Quinlan and Mr. Miller, I can go no further in the investigation. Were these ordinary times, I would convene a subcommittee hearing and call these individuals and others to testify under oath to the facts pertaining to the cancellation of Kimberlin's press conference and his detentions by the Bureau of Prisons.

However, these are not ordinary times—we are in the final month of a Presidential election—and holding a hearing would probably lead to charges of politics. That would deflect the public's attention and the attention of the agencies involved from the important substance of the issues involved. Consequently, I have decided not to hold a hearing at this time, but to present my findings as well as the outstanding questions to the Inspector General of the outstanding questions to the Inspector General of the Department of Justice.

Mr. President, I ask unanimous consent that my letter dated today to the inspector general and a report describing my investigation be included in the RECORD in full immediately following these remarks.

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

[See exhibit 1.]

Mr. LEVIN. The report addresses four key events in the Kimberlin chronology, all flashpoints of what appears to be improper Government action to isolate Kimberlin. These are: the decision by Bureau Director Quinlan on November 4, 1988, to cancel a press conference arranged by local prison officials and three separate decisions by the Bureau of Prisons on November 4, November 7, and December 22, 1988, to confine Kimberlin in administrative detention. The information we have about each of these events is based upon our review of depositions taken in the pending civil case, court pleadings and decisions, our own interviews, and the responses to our questions by the Department of Justice.

Mr. President, after reviewing that evidence and given the refusal of the Justice Department to allow interviews of Mr. Quinlan and Mr. Miller, I can only conclude that the cancellation of Kimberlin's November 4th press conference and his subsequent administrative detentions were actions taken by the Bureau of Prisons for political purposes. The primary purpose was to keep Kimberlin's allegations that he sold marijuana to Vice President QUAYLE in the 1970's out of the 1988 campaign. Whether these actions occurred on the independent initiative of Mr. Quinlan or other Federal employees or at the request of the Bush-Quayle campaign is a question that remains unanswered.

The evidence of political considerations in the Kimberlin matter is as follows:

We know that the most senior officials in the Bush-Quayle campaign—Jim Baker, Lee Atwater, Fred Fielding, Stu Spencer and Joe Canzeri, as well as Vice President QUAYLE himself—knew about Kimberlin's allegations and his efforts to publicize them.

We know the Bush-Quayle campaign believed that the public's attention to the Kimberlin allegations could have serious consequences. Mark Goodin, the campaign's deputy press secretary, has stated in a deposition that:

> Oh, I don't think there was any doubt about what could happen. I have seen this kind of thing play out before. I made it very clear when I approached other senior officials of the campaign that it could be—it was something that we needed to take seriously and deal with seriously because of its potential for adverse publicity.

Mr. Goodin conveyed that sentiment to the Justice Department in a conversation described in a 1989 memorandum prepared by Mr. Miller in which he states that Mr. Goodin "noted the obvious: that the closer to the Tuesday election that the story were to break, the more attention it was likely to get, and the better the chance that it could have at least some adverse effect on the Bush-Quayle chances." Stu Spencer, QUAYLE's campaign manager, stated in his deposition that he, too, took the Kimberlin allegations seriously because, "Late charges can be devastating."

We know that the campaign monitored the situation closely. Mr. Goodin, the campaign's key link to the Justice Department, stayed in constant touch with the Department on the Kimberlin matter. As Mr. Goodin stated in his deposition:

> Over a fairly substantial period of time, it is fair to characterize my contact with the Department of Justice as fairly close contact. * * * It's certainly fair to say that I kept close tabs on the issue through the Department of Justice.

A December 1988 memorandum prepared by Mr. Quinlan for his superiors also reveals that at least one unidentified person from the campaign—Mr. Goodin has said it wasn't him—telephoned the Bureau directly to inquire about Kimberlin's media contacts.

We know the Justice Department, through Mr. Miller, agreed to keep the campaign informed and, in fact, kept Mr. Goodin apprised of key developments in Kimberlin's attempts to reach the press with his allegations. Mr. Goodin then kept Mr. Baker and other top campaign officials apprised of the key developments.

We know that the campaign, the Justice Department and the Bureau of Prisons fielded frequent calls from the press in the final days of the 1988 election about the Kimberlin allegations.

We know that Mr. Quinlan became personally involved to a highly unusual, if not unprecedented, degree in the decisions made with respect to Kinberlin: First, he personally ordered the cancellation of the press conference arranged by the prison; second, he personally ordered Kimberlin placed in administrative detention; and third, he requested and reviewed transcripts of Kimberlin's telephone calls during this period.

We know that Mr. Quinlan was aware of and concerned about Kimberlin's contacts with the media. The December 1988 memorandum he prepared for his superiors began, for example, by stating that, "As you know, Kimberlin's allegations * * * have received additional media attention in the last several days." Later in that memorandum, Mr. Quinlan pointed with satisfaction to the fact that his earliest decision in the Kimberlin matter, to allow an interview by NBC, resulted in "no news outlet carr[ying] the story in the pre-election period."

We know that there are serious gaps and inconsistencies in the Bureau's explanations of the substantive basis for its actions in the Kimberlin matter:

First, Mr. Quinlan cancelled the November 4th press conference arranged by local prison officials by citing a purported policy against inmate press conferences, which local prison officials had never heard of, has never been put in writing, and was not applied by the Bureau to monthly press conferences held by a former Member of Congress incarcerated in federal prison in 1986 and 1987.

Second, Mr. Quinlan justified placing Kimberlin in detention on November 4th by claiming he'd received information that Kimberlin feared for his safety from other inmates, despite a contemporaneous finding by the prison that no such inmate threat existed, and despite inconsistent and questionable evidence of how that information reached the Director late at night in an out-of-town hotel.

Third, the Bureau's decision to return Kimberlin to detention on November 7th, the day before the election, relies on unclear documentation and suspect timing, lacks an

identifiable authorizing official, and has been justified by inconsistent explanations.

Fourth, the Bureau's explanations for placing Kimberlin in detention on December 22nd were found unconvincing by an independent hearing officer who determined that Kimberlin was innocent of the rule infractions charged.

Key individuals must be directed to explain these inconsistencies, contradictions and gaps in the Kimberlin story. Because the Justice Department has refused to permit subcommittee interviews of two of these individuals, Mr. Quinlan and Mr. Miller, and a subcommittee hearing is not feasible at this time, I've taken the investigation as far as I can. That is why I have asked the inspector general to become involved.

If the conclusion of the inspector general is similar to mine—that the Bureau took these actions against Kimberlin to isolate him for political purposes—the inspector general should identify the Federal officials involved and recommend appropriate disciplinary action.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
*Washington, DC, October 2, 1992.*

Hon. RICHARD J. HANKINSON,
*Inspector General, Department of Justice, Washington, DC.*

DEAR MR. HANKINSON: As Chairman of the Senate Subcommittee on Oversight of Government Management, I recently directed my staff to investigate allegations that the Bureau of Prisons acted for political purposes to silence a federal prisoner in 1988. The prisoner's name is Brett Kimberlin, and he was incarcerated at the time in El Reno, Oklahoma.

Although the incidents occurred in 1988, a pending civil suit against the Department of Justice and several individuals involved in the incidents has brought new and more detailed information to light. Based on the evidence which I and my staff reviewed, I have concluded that the allegations are substantial and credible. Several key people, however, have not been interviewed because the Justice Department has refused to make them available. Before any administrative or personnel actions can be recommended, further investigation is necessary.

I ask your office to investigate this matter as soon as possible, and I am enclosing a report on the investigation conducted by my staff for your information and use. Your office may have access to the information and documents we have obtained or developed.

Some key questions for your office to address are as follows:

What were the reasons for actions taken by the Bureau of Prisons in 1988 to cancel the press conference and place Kimberlin in administrative detention in the enclosed report?

Did these actions violate Bureau policy, and were they motivated in whole or in part by political considerations?

Were efforts made to cover-up the real reasons for the Bureau's actions?

Did any Bureau or Department personnel engage in improper conduct with respect to Kimberlin in 1988, and, if so, would they be subject to disciplinary action?

For additional information, please contact Elise Bean of my staff at (202) 224-3682. I appreciate your prompt attention to this matter.

Sincerely,

CARL LEVIN,
*Chairman, Subcommittee on Oversight of Government Management.*

REPORT BY SENATOR CARL LEVIN, CHAIRMAN, SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT ON ACTIONS BY BUREAU OF PRISONS IN RESPONSE TO MEDIA CONTACTS WITH PRISONER BRETT KIMBERLIN, OCTOBER 2, 1992

In June 1992, as Chairman of the Subcommittee on Oversight of Government Management, I directed my Subcommittee staff to undertake an investigation into the facts behind an article published in the New York Times on May 3, 1992. The article claimed that, in the weeks just prior to the 1988 election, the Bureau of Prisons took action to silence a federal prisoner, Brett Kimberlin, who had been making allegations to the press about then vice presidential candidate Dan Quayle.

The investigation has reviewed press accounts, pleadings and sworn depositions in a pending court case, materials provided by the Justice Department, and other information. The Justice Department has refused to permit requested interviews of two key individuals, Michael Quinlan, Director of the Bureau of Prisons, and Loye Miller, Director of the Office of Public Affairs of the Justice Department in 1988.

Based on the information reviewed and having been denied by the Justice Department the two requested interviews, I can only conclude that the Bureau of Prisons did, in fact, take action against Brett Kimberlin for political purposes by cancelling a press conference on November 4, 1988, and placing him in administrative detention on November 4, November 7, and December 22, 1988, the primary purpose of which was to keep Kimberlin's allegations concerning Mr. Quayle out of the 1988 campaign.

This report sets forth the information that forms the basis for this conclusion.

BACKGROUND

Approximately one month before the 1988 presidential election, Brett Kimberlin, who has been incarcerated in federal prison since 1979, talked to National Public Radio reporter Nina Totenberg about his allegations that he sold marijuana to Vice President Dan Quayle in the 1970's. Shortly thereafter, Ms. Totenberg, without disclosing Kimberlin as the source, asked the deputy press secretary of the Bush-Quayle campaign, Mark Goodin, to comment on these allegations. When Mr. Goodin declined to comment without more information on who was making the allegations, Ms. Totenberg provided a signed affidavit from Kimberlin.

Mr. Goodin has stated he immediately notified the top officials in the campaign, including Jim Baker, overall campaign chairman; Lee Atwater, overall campaign manager; and Stu Spencer, campaign manager for Mr. Quayle. Mr. Goodin has stated that Mr. Baker told him to "find out" who Kimberlin was, and when the campaign's research discovered that Kimberlin was a convicted felon, Mr. Goodin continued to refuse comment to Ms. Totenberg.

According to Mr. Goodin, when he informed Ms. Totenberg that he had discovered Kimberlin's prison status and declined further comment, her response convinced him that she was nevertheless preparing to publicize Kimberlin's allegations. He again notified top campaign officials. Mr. Goodin has testified that, at that point, Mr. Baker decided Mr. Quayle had to be informed. When told of the Kimberlin allegations, Mr. Goodin said that Mr. Quayle flatly denied them. Mr. Goodin reported that denial to Ms. Totenberg on an "off the record" basis to convince her not to run the story, but, according to Mr. Goodin, he still wasn't sure what she would do.

After a few days passed, Mr. Goodin has stated that he began to receive calls from other reporters repeating the Kimberlin allegations. He guessed that Kimberlin "was becoming restless" and had begun contacting other media outlets. Mr. Goodin has stated that he called the Justice Department to find out how Kimberlin was getting through to the press.

Mr. Goodin called the Justice Department because the Bureau of Prisons is under its authority. He has stated that the deputy director of the Department's office of public affairs, Deborah Burstion-Wade, told him that federal prisoners have the right to use the telephone and may contact the press. Mr. Goodin has stated that he expressed surprise, but accepted her explanation.

On Thursday, November 3, 1988, five days before the presidential election, NBC News asked the 1500-inmate prison at El Reno, Oklahoma, where Kimberlin was then incarcerated, for an on-camera interview with Kimberlin. The prison offered to schedule the interview on Wednesday of the following week, its regular scheduling day for media interviews. Because that day would be after the election, however, NBC asked that the interview take place earlier, before the election.

The prison called the Bureau's public affairs office in Washington, D.C. for guidance. The chief of that office, Jim Jones, has stated that he met with Bureau Director Quinlan and Mr. Quinlan's chief of staff, Tom Kane, about NBC's request. He also spoke with Frank Keating, the Associate Attorney General of the Justice Department with direct management authority over the Bureau of Prisons. Mr. Keating's deputy, Cary Copeland was also contacted and testified later that, while the Bureau didn't call him about every inmate interview, it did "[o]bviously because of the political sensitivity here. We had a candidate for vice president, the election is 5 days away, very obvious sensitivity."

In a memoradum prepared for his superiors, Director Quinlan has stated that someone from the Bush-Quayle campaign also called the Bureau to inquire about the interview, although the Bureau has not disclosed who made the call, who took it, or what was said.

The Bureau decided to instruct the prison to schedule the interview for the next day. In a subsequent memorandum, Director Quinlan gave three reasons: (1) unless granted, NBC had threatened to air the Kimberlin allegations "with the additional twist that the Bureau was preventing the interview until after the election to protect the Quayle candidacy"; (2) Kimberlin had a "fundamental lack of credibility," and (3) delaying the interview created the "likelihood of unnecessarily precipitating a 'cover-up' story just before the election." Director Quinlan also noted with satisfaction that the Bureau's judgment to allow the interview was "borne out by the fact that no news outlet carried the story in the pre-election period."

The NBC interview took place the next day, November 4, 1988. Although it was not broadcast, it did create a local stir when a

small Oklahoma paper published the fact that the interview had taken place earlier that day. This article resulted in several new requests to the prison for interviews with Kimberlin.

PRESS CONFERENCE CANCELLATION—EARLY EVENING, NOVEMBER 4TH

The prison attempted to respond to the new interview requests. The acting warden, Greg Hershberger, who'd been with the Bureau for about ten years, decided that the best way to handle the requests was to schedule a single group interview that night in the prison's visiting room.

Mr. Hershberger set the group interview for 7:00 that evening. He told the prison official who handled press matters, Rodger Benefiel, to inform those interested in attending. He called his warden, Tom Martin, who was out of town for the weekend to tell him what he'd decided. The warden has testified that his reaction at the time was that, it "seemed to be a way of * * * appropriately utilizing the resources of the institution, as opposed to having a lot of individual interviews there. It was a way of handling the situation." He expressed no opposition. Mr. Hershberger also notified the Bureau's regional office, which expressed no opposition. He has stated that he consciously decided not to alert the Bureau's Washington office, because that was out of his "chain of command"; he instead left it to the regional office to take what action it would in terms of notifying Bureau headquarters.

About 10 to 15 individuals indicated that they would attend the prison's group interview that night, just four nights before the election.

Then word of the prison's plan started getting back to Washington. Reporters contacted the campaign and the Department of Justice public affairs office. The campaign's deputy press secretary, Mark Goodin, called the Justice Department to determine whether the prison was, in fact, going to hold a group interview. He has stated that, "I knew that I was about to be overtaken by events, and if this guy had a press conference, it was very likely that I was going to have to respond to the [Kimberlin] allegation[s] whether I liked it or not."

Mr. Goodin says that when he was told by Ms. Burstion-Wade, deputy director of public affairs at the Justice Department, that inmates can participate in press conferences, he responded, "I just never cease to be amazed." He then asked to speak to the public affairs director, Loye Miller, who also said it was within an inmate's rights to participate in a group interview. Goodin has stated that he responded, "I'm amazed," and later, "I am bowled over."

Mr. Goodin has stated that he asked Mr. Miller to keep the campaign informed of developments in this matter and that Mr. Miller agreed. Mr. Goodin and Mr. Miller have both stated that they later discussed the fact that a press conference could affect the election. In a 1989 memorandum, Mr. Miller stated that, in one conversation, Mr. Goodin "noted the obvious: that the closer to the Tuesday election that the story were to break, the more attention it was likely to get, and the better the chance that it could have at least some adverse effect on the Bush-Quayle chances." Mr. Goodin has testified: "Oh, I don't think there was any doubt about what could happen. I have seen this kind of thing play out before. I made it very clear when I approached other senior officials of the campaign that it could be—it was something that we needed to take seriously and deal with seriously because of its potential for adverse publicity."

Mr. Miller and his deputy, Ms. Burstion-Wade, each called the chief of the public affairs office at the Bureau of Prisons, Jim Jones, to inquire about the press event. Mr. Jones had already learned of the planned event from a reporter. Other top officials at the Justice Department, including the Attorney General's chief of staff, Robin Ross, were also informed.

Mr. Goodin alerted Mr. Baker and other top officials in the Bush-Quayle campaign to the possibility of the press event. In response, Mr. Quayle's campaign manager, Stu Spencer, began making press calls to challenge Kimberlin's credibility, but testified later that he got "no guarantees" from the press not to run the story. He testified that he made these press calls because, "Late charges can be devastating."

In the meantime, Mr. Jones sent a beeper message to Bureau Director Quinlan, then on a plane to Chicago. After landing, Mr. Quinlan called his office and was told of the prison's plan. Mr. Quinlan and Mr. Jones decided that the press event should be cancelled.

Mr. Quinlan then personally called the Bureau's regional director, J.D. Williams, and told him to cancel the press event. Mr. Williams called the prison. According to the acting warden, Mr. Hershberger, it was almost time for the group interview, and he asked Mr. Williams to reconsider. Mr. Williams agreed to do so, hung up the phone and apparently consulted with Mr. Quinlan or Mr. Jones once more. Mr. Hershberger has testified that Mr. Williams then called back with the verdict: "It's off. Cancel it."

The prison official assigned to deal with the media, Rodger Benefiel, told the 10 to 15 reporters waiting in the prison parking lot. When one demanded to film a public statement on why the interview had been cancelled, Mr. Benefiel read a statement drafted by the acting warden. It said that the press conference had been cancelled due to "unforeseen developments." When asked in a recent deposition what those unforeseen developments were, Mr. Benefiel said they were the order from Bureau officials to cancel the event.

Meanwhile, word of the cancellation got back to others in Washington who were interested. Mr. Miller in the Justice Department said word reached him within an hour or two of his first learning that a press conference was going to be held. Mr. Goodin at the campaign has stated that Justice alerted him by "late afternoon." The acting warden has reported learning of the cancellation a short time before the press conference was scheduled to begin at 7:00 p.m. It is unclear whether Mr. Goodin and Mr. Miller knew of the cancellation before the acting warden did. Mr. Miller has said that he also alerted Ms. Totenberg, who had inquired about the press event earlier. Kimberlin has said he was told of the cancellation about 8:30 that night.

At various times, the Bureau has given two different reasons for cancelling the prison's press event. In some depositions, Bureau personnel have implied that the press event was disruptive to the prison and had to be cancelled due to logistical problems. However, since the prison officials most closely involved have testified that there was no significant disruption to prison routine, that explanation is unconvincing.

The primary justification that Mr. Quinlan, Mr. Jones and other Bureau officials have offered is the flat statement that inmate press conferences are against Bureau policy. The Justice Department has stated in a letter to my Subcommittee that it has been "unable to identify any occasion on which an inmate 'press conference' was held in a federal prison."

There are four facts which refute this position. First, there is no written Bureau regulation or guideline that prohibits press conferences or even indirectly discusses them. The Bureau subsequently proposed such a written policy as part of a larger regulation, but then withdrew the rule without taking action on it.

Second, a November 1988 affidavit by former Congressman George Hansen, filed in unrelated litigation, copy attached, states that, during 1986 and 1987, the Bureau of Prisons allowed him to hold monthly press conferences in a federal prison in Virginia.

In his affidavit, Mr. Hansen states that, "Holding these press conferences was not merely approved, but was actually suggested, by the Federal Bureau of Prisons to accommodate press interest in me * * *." He states that "[s]ometimes over ten reporters and several television cameras were present."

A third fact that contradicts the Bureau's explanation is that the El Reno and regional prison officials were unaware that a "no press conference" policy existed. Tom Martin, who had been with the Bureau for almost 30 years, eight of them as warden of El Reno prison, testified that during his term the prison had housed some notorious inmates and "we were not exactly novice in terms of dealing with high visibility inmates." Yet he had not known of the policy against inmate press conference.

The Bureau's regional director, J.D. Williams, had been with the Bureau over 20 years. He also knew of the press event beforehand, yet expressed no opposition to it nor did he alert the prison to the alleged "no press conference" policy.

The acting warden, Mr. Hershberger, who had been with the Bureau about 10 years, has stated that he was unaware of the policy at the time and has yet to see it in writing.

Finally, Mr. Miller and his deputy at Justice initially advised the Bush-Quayle campaign that inmates are allowed to participate in press conferences. Deposition testimony indicates that they obtained that information from the Bureau. The Bureau's general counsel, Clair Cripe, has also been quoted in the press as saying inmate press conferences have been allowed in the past and are not against law or Bureau policy. The Hansen monthly press conferences provide proof of that position.

Yet Director Quinlan and the Justice Department maintain that the Kimberlin press conference, which was set up by the El Reno prison officials, was cancelled because inmate press conferences are not allowed. The available evidence does not support that claim.

FIRST DETENTION—LATE EVENING, NOVEMBER 4TH

The same night the press event was cancelled, Kimberlin was removed from the general prison population, placed in administrative detention, and his access to the media was halted.

Being placed in administrative detention is described by El Reno prisoners as getting thrown "in the hole." It consists of a prisoner's being confined in a particular cellblock with restricted privileges. Telephone use, exercise and visiting privileges are curtailed. Administrative detention removes prisoners from the general prison population to assess or protect their safety, investigate rule infractions, prepare for transfers to other facilities, or for other reasons. Accord-

ing to the Bureau, placement in administrative detention is not a punitive action. Punishment for prison rule violations is handled instead by placing prisoners in "disciplinary segregation," although at El Reno in 1988, prisoners subject to administrative detention were housed in the same cellblock as those subject to disciplinary segregation.

By November 1988, Kimberlin had been in prison approximately nine years without disciplinary problems. But on November 4, 1988, shortly after the press conference was cancelled, he was taken from his cell and thrown in "the hole."

When asked to explain the reason for placing Kimberlin in administrative detention, the Justice Department and Bureau of Prisons have provided the following facts.

Bureau Director Quinlan, whose actions directly caused Kimberlin's detention, has stated that sometime between 10:00 and 11:00 p.m. on November 4th, while attending an ABA function in Chicago, he received information that Kimberlin had expressed fear for his safety. Federal prison policy states that any inmate who fears for his or her safety may be placed in administrative detention pending an investigation of possible threats. Receiving that information thus gave Mr. Quinlan the justification he needed to order Kimberlin's detention.

Mr. Quinlan has never related who gave him this alleged information, when or in what form. But the Department of Justice has indicated that, upon receiving it, Mr. Quinlan personally telephoned the Bureau's regional director, J.D. Williams. In his December 1988 memorandum prepared for his superiors, Mr. Quinlan has stated that, "My instructions were to take appropriate steps to ensure the inmate's safety and to investigate the purported danger; it was clearly understood that this information would result in Kimberlin being placed in administrative detention * * * pending an assessment of any possible threat * * *."

Within the hour of Mr. Quinlan's call, Kimberlin was seized in his cell by six guards, handcuffed, marched to the detention unit in the cold, strip searched and placed in a small cell. Kimberlin's housing order stated: "NO! MORE CALLS FOR THIS INMATE/per Lt. Garvue"—a note which has been described by El Reno officials as unusual.

There is no evidence that any Director of the Bureau of Prisons had ever before personally ordered an individual inmate into administrative detention. Tom Martin, the prison warden, has expressed surprise at any involvement by the Director since, in his words, Mr. Quinlan "leaves that kind of thing up to the local facility." In fact, Mr. Martin has stated that administrative detention decisions are usually the province of the on-duty supervising lieutenant at the prison—in most cases, not even wardens are involved. Yet Kimberlin's circumstances rose through the Bureau's ranks all the way to the Director, leading Mr. Quinlan to make a late-night call from an out-of-town hotel to get Kimberlin placed in administrative detention, and, in contradiction to his own 1988 memorandum, is apparently now claiming it was a local decision.

The Justice Department made that latter claim in a September letter to the Subcommittee which stated that, "there was no order or instruction [by Mr. Quinlan or Mr. Williams] that Mr. Kimberlin be placed in administrative detention. * * * The actual decision to place Mr. Kimberlin into administrative detention pending an evaluation of the degree of risk facing him was made at the local level by Acting Warden Hershberger."

Yet Mr. Hershberger has stated under oath that he did not order Kimberlin's detention. In fact, after the press event was cancelled, Mr. Hershberger has stated that he ordered his staff to go out on the prison compound to assess any threat to Kimberlin from other inmates. The staff and he explicitly concluded that there was insufficient threat to justify Kimberlin's being confined. Mr. Hershberger then went home. Mr. Benefiel, the prison official who actually received the call from the regional director, was trying to finish up after the cancelled press event so he, too, could go home. He has stated under oath that he did not independently decide to place Kimberlin in administrative detention; he merely "passed on the request from the regional director" to do so. In fact, both he and Mr. Hershberger have agreed under oath that, in light of the prison's own investigation into Kimberlin's safety that night, absent the instruction from the regional director (which was initiated by Mr. Quinlan), Kimberlin would not have been placed in detention at all.

In contrast to the Justice Department's current position, in a June 19, 1989 letter issued by the Bureau of Prisons denying tort claims filed by Kimberlin, Carolyn Sabol, Regional Counsel, speaking for the Bureau states: "Mr. Quinlan did request that Mr. Kimberlin be placed in administrative detention late in the evening of November 4, 1988 * * * ."

In short, despite the Justice Department's latest claim, the evidence is overwhelming that it was Mr. Quinlan's personal action that was the direct cause of Kimberlin's detention on November 4th.

There are also a number of unanswered questions about this detention. First is how Mr. Quinlan came to believe that Kimberlin feared for his safety. The Justice Department has indicated that Kimberlin told Ms. Totenberg over the telephone at some time on November 4th that he feared for his safety, that Ms. Totenberg conveyed this to Mr. Miller at the Justice Department, and that somehow Mr. Miller conveyed that information to Mr. Quinlan.

Contemporaneous documents and subsequent deposition testimony also use the Totenberg-Miller conversation as the primary justification for Kimberlin's detention on November 4th. A memorandum drafted by Mr. Benefiel, the prison official who got the call from the regional director to place Kimberlin in detention, cites that conversation. The actual detention papers, completed by a Lt. Wingo, cites that conversation. Jim Jones at the Bureau has stated under oath that both Mr. Miller and Mr. Quinlan told him that Mr. Miller had spoken directly to Mr. Quinlan about his conversation with Ms. Totenberg, and that Mr. Quinlan then called the regional director to detain Kimberlin on that basis.

Yet the evidence for this chain of events is weak and contradictory. First, the prison's own review of all of Kimberlin's telephone conversations on November 4th did not find any call in which Kimberlin made such a statement. Second, Ms. Totenberg has stated in a sworn affidavit that she never communicated that information to Mr. Miller, the alleged source for Mr. Quinlan. Third, Mr. Miller, who insists that Ms. Totenberg did give him that information, says she did so *after* she learned Kimberlin had been placed in administrative detention and was calling Mr. Miller to demand his release. Finally, Mr. Miller denies ever speaking to Mr. Quinlan about Kimberlin, period.

When asked to explain these discrepancies, the Justice Department merely states in its September letter to the Subcommittee that, "Just when and how that information reached Director Quinlan, who was then in Chicago, remains obscure."

Another unanswered question is who placed the "NO! MORE CALLS" order on Kimberlin's detention papers, which was unusual at El Reno and appears intended to cut off Kimberlin's access to the media. Lt. Garvue, who is credited with the no-more-calls order, cannot recall giving it nor can he explain the basis for it. Lt. Wingo, who completed the detention papers that night, has stated that Lt. Garvue did not have the authority to issue that order, and it would have "had to come from higher up." Yet Mr. Benefiel, Mr. Williams, Mr. Jones and everyone else deposed so far has denied providing that instruction.

The instruction was overridden the next day anyway when Ms. Totenberg called Mr. Miller at the Justice Department and Fred Fielding at the campaign and threatened to run the Kimberlin story unless Kimberlin were allowed to speak with her on the telephone to prove he was unharmed. Mr. Miller conveyed that threat to the Bureau, and Jim Jones instructed the regional office to arrange the call.

A third question pertains to why the investigation that was conducted the next day, on November 5th, to assess the alleged threat to Kimberlin's safety was handled in such an unusual way. The Special Investigative Supervisor placed in charge of the investigation was Lt. Jim Monk. He has stated under oath that his normal procedure when a third party alleges that an inmate fears for his safety is to interview the third party, the inmate, other inmates and the prison staff. But he took none of those steps here. Instead, he was instructed by acting warden Hershberger to review all of Kimberlin's telephone calls from October 31st through November 4th to determine whether Kimberlin ever expressed a fear for his safety. Lt. Monk reviewed 35 calls over that five-day period and never located such a statement. After he concluded his analysis, Kimberlin was released from detention at about 7:30 that evening. The Bureau has been unable to determine, however, who actually ordered Kimberlin's release.

The discrepancies, contradictions and confusion in the explanation of the first decision to place Kimberlin in administrative detention are evidence that it was not a straightforward decision made by professionals. Rather than protecting Kimberlin's safety it appears to be an effort to isolate Kimberlin for political purposes.

SECOND DETENTION—EARLY MORNING, NOVEMBER 7TH

Shortly after Kimberlin's release from detention the first time, the Bureau learned of his plans to contact an assembled group of reporters by telephone on November 7, 1988. Kimberlin was then isolated in a second administrative detention for a week, starting the day before the election and minutes before his scheduled telephone call.

After Kimberlin had been released from his first detention on Saturday evening, November 5th, he spent the next 24 hours trying to arrange his own press conference. His plan was to convince a group of reporters to assemble in a room at the Mayflower Hotel in Washington, D.C. on Monday, November 7th, at 10:00 a.m. and, at the appointed time, to telephone and present his story with the help of a speaker phone.

Because acting warden Hershberger had instructed Lt. Monk to monitor all of

Kimberlin's telephone conversations that weekend, the Bureau learned of Kimberlin's plan. There was no instruction, by the way, that Lt. Monk listen for threats to Kimberlin's safety; Mr. Hershberger did not provide him with any instruction other than to listen to all of Kimberlin's calls.

Federal prisons have the capability to monitor and record all telephone calls by inmates. Inmates are warned of this capability and, at the El Reno prison, signs by the telephones remind prisoners they are being monitored. El Reno's system permits the prison both to review past calls and to listen contemporaneously to ongoing conversations.

On Sunday evening, November 6, 1988, two days before the election, Richard Acuff, an associate warden at El Reno who was serving as acting warden while Mr. Hershberger was called away on a family emergency, stopped by the monitoring facility.

Mr. Acuff has stated that he regularly stopped by the monitoring facility to listen to prisoners' calls on a random basis. He has stated that he did so on Sunday night to get a sense of what was going on in the prison and to see what the prisoners thought about the upcoming election. During that visit, he listened to a conversation in which Kimberlin was urging a reporter to attend the hotel press conference the next morning. Lt. Monk informed him about Kimberlin's plan.

Mr. Acuff left the prison and walked to the nearby residence of prison warden Tom Martin, who had returned from out of town that Sunday night. Mr. Acuff has stated that he was leaving town for the next three days and wanted to be sure that the warden was informed of Kimberlin's plan to contact reporters at the Mayflower Hotel the next morning at 10:00 a.m.

By Monday morning, word of the hotel press conference had also reached Washington as reporters contacted both the Bureau of Prisons and the Department of Justice. At 9:45 on Monday morning, November 7th, 15 minutes before his scheduled telephone call to the press, Kimberlin was once again seized, handcuffed, strip searched, and placed in administrative detention. The log was marked: "No Phone Calls." He remained there for a week.

Like the first detention, there are a number of unanswered questions about this decision by the Bureau to place Kimberlin in administrative detention.

First, no one has admitted to making the decision to put Kimberlin in administrative detention a second time. The prison warden, Tom Martin, was in his office Monday morning, but doesn't recall giving the order or being consulted about it. He has stated that such decisions are usually made by a supervising lieutenant. However, Lt. Monk denies making the decision, as does Mr. Benefiel. On that particular Monday morning, Messrs. Hershberger and Acuff were both out of town.

A press article has quoted Mr. Miller as saying that Director Quinlan ordered the second detention. Mr. Quinlan is quoted in the same article as saying that he was aware of the detention but did not "personally" make the decision—unspecified local prison officials did. The Justice Department has claimed that Kimberlin's second detention was not even known to Washington officials beforehand.

Second, no one has admitted to issuing the "No Phone Calls" instruction. Kimberlin's access to the media was clearly halted during his week in detention yet, again, no Bureau official can recall issuing or being consulted about the order that limited Kimberlins's telephone use.

Third, the Bureau's justification for detaining Kimberlin raises substantive issues. The Bureau now insists that the sole reason for his November 7th detention was because, three days earlier, on November 4th, Kimberlin had made an unallowed third party telephone call to the Dukakis campaign. On November 4th, Kimberlin had, in fact, attempted to telephone the campaign. When the Dukakis campaign refused to accept his collect call, Kimberlin telephoned a friend who called the campaign on his behalf and forwarded Kimberlin's call. The Dukakis campaign then took a message from Kimberlin for the person he was trying to reach. This third party call was allegedly discovered on Monday morning by Lt. Monk who completed an "incident report" by 9:30 a.m.; this time is marked on the document. Fifteen minutes later, Kimberlin was thrown into administrative detention.

This alleged explanation for Kimberlin's second detention is suspect for several reasons.

There is the question of timing. Lt. Monk had completed reviewing Kimberlin's November 4th calls on November 5th, yet allegedly didn't discover the unallowed call until November 7th. It is unclear why he either failed to notice the call two days earlier or why he was again reviewing Kimberlin's calls that Monday morning. Even more surprising is that, within 15 minutes of his filing the incident report at 9:30 a.m., the prison processed it, located Kimberlin and placed him in administrative detention by 9:45 a.m.—all prior to his scheduled 10:00 a.m. call to the Mayflower Hotel.

There is the question of the administrative detention order itself. The only explanation given for Kimberlin's detention is the single word, "Investigation." The order doesn't say what was being investigated or who was doing it. And there is no evidence that any investigation was then underway. Lt. Monk has stated under oath that, unlike Kimberlin's first detention, he performed no investigation during Kimberlin's second detention. He explained that he had already completed his investigative work when he filed the incident report.

There is the question of the severity of the detention decision. Although third party calls are against prison rules, because they interfere with a prison's ability to monitor its prisoners and raise concerns about prison security and commissions of crime, federal regulations classify third party calls as one of the least severe rule infractions a prisoner can commit. A telephone call to the Dukakis campaign is not the type of call that raises security or criminal considerations. Administrative detention is not required in such circumstances.

For those reasons, the claim that Kimberlin's November 7th detention was caused by his November 4th third party call to the Dukakis campaign is simply not convincing.

Another factor is that there have also been other explanations offered by the Bureau of Prisons and Justice Department for this detention. The first focuses on the hotel press event. A December 1988 press article in the *Legal Times* quotes Mr. Miller as stating that, "The Bureau of Prisons caught on that [Kimberlin] was going to hold another press conference, so they put him back in." A memorandum written by Mr. Miller in October 1989, states that the Bureau had told him that Kimberlin: "had indeed tried to set up such a press conference. When they overhead this they took steps to prevent that and, in fact, Kimberlin was back in detention. It was certainly my understanding at the time that it was this attempt to hold an unauthorized press conference which directly caused him to be segregated once again. But it may well be that the cause, instead, was his attempt to get hold of the Dukakis campaign. Both of these gambits were clearly in violation of prison regulations and either or both were good cause for detention."

Similarly, the Bureau of Prisons stated in its June 1989 letter denying Kimberlin's tort claim that he was placed in detention a second time "as a result of" his attempts to "use the telephone to set up a press conference in Washington, D.C. that morning * * * [in] violation of our rules and [to] protect the integrity of institutional security." This document makes no mention of the third party call to the Dukakis campaign.

Another explanation advanced by Bureau officials cites third party calls in connection with the hotel press conference. Bureau Director Quinlan, in a December 1988 letter to Senator Biden, stated that it was a third party call on "Monday, November 7" that led to Kimberlin's detention. He made no mention of the call to the Dukakis campaign on Friday, November 4th. In an August 1990 letter to Congressman Kastenmeier, Mr. Quinland wrote that Kimberlin was detained because he made third party calls to arrange the hotel press conference, again making no mention of the November 4th call to the Dukakis campaign. Mr. Quinlan's chief of staff, Tom Kane, has also stated that his recollection of the reason for Kimberlin's second detention was his use of third party telephone calls to arrange the hotel press conference.

Yet the Justice Department has claimed in a letter to the Subcommittee that the hotel press conference was completely "unrelated" to the decision to place Kimberlin in detention a second time. The sole reason for Kimberlin's second detention on November 7th, according to the Justice Department, was Kimberlin's third party call on November 4th.

Finally, on November 7th, after Kimberlin's second detention had begun, the warden mailed to Director Quinlan, personally, seven cassette tapes containing recordings of Kimberlin's telephone conversations over the previous few days. Mr. Hershberger and Mr. Acuff have stated under oath that this was an unusual occurrence. Mr. Quinlan's chief of staff, Tom Kane, has stated that Mr. Quinlan's receipt of such tapes was "uncommon." We don't know why Mr. Quinlan requested these tapes or what was done with them.

THIRD DETENTION—DECEMBER 22ND

Kimberlin's second detention ended after a hearing on November 14th. That hearing found him guilty of making the third party call to the Dukakis campaign, then ordered his release. That same day, the United States Parole Commission reversed an earlier, preliminary decision making Kimberlin eligible for parole in 1993. It set back his parole date five years, to 1998.

A month later, on December 19, 1988, an extensive article on Kimberlin's allegations and treatment by the Bureau of Prisons appeared in the *Legal Times*. On December 20th, a short piece appeared in the *New York Times*. On December 21st, Kimberlin provided a telephone interview to a New York radio show which requested a response from the Bureau. That same day, USA Today, which then produced a television show, ran a story which featured split screen photographs of Kimberlin and Director Quinlan.

The prison resumed surveillance of Kimberlin during this time. Deposition testimony indicates that prison Lt. Gale Williams recorded Kimberlin's telephone conversations on at least December 20th and 21st, and in some cases listened to them contemporaneously.

At some point on December 21st, Jim Jones, chief of the public affairs office in the Bureau's headquarters in Washington, asked his chief of communications, Richard Phillips, to obtain an immediate recording of at least some of Kimberlin's calls. Mr. Phillips has stated under oath that he doesn't know why Mr. Jones wanted the recording, but "[t]here was a great deal of media interest" in Kimberlin at the time. He also stated that this was the only time he has been asked to obtain a recording of an inmate's conversations.

After obtaining permission from Warden Martin, Mr. Phillips contacted Lt. Gale Williams that same day. Lt. Williams played a tape of several Kimberlin conversations over the telephone, which Mr. Phillips recorded on his end. Mr. Phillips' recording also picked up the voices of himself and Lt. Williams as they discussed the calls. Several of the conversations were between Kimberlin and his attorney. At one point, Mr. Phillips indicated that he had taken notes, had to get the "attorney call * * * into the director," and asked Lt. Williams to send him by overnight mail cassette tapes of the conversations. Lt. Williams agreed.

The next day, on December 22, 1988, the prison seized Kimberlin from his work detail, handcuffed him, marched him to the administrative detention unit, strip searched him, and isolated him a third time. The housing log stated: "No phone calls unless permitted by team (per R Benefiel)." The charge was that Kimberlin had made a third party call to his attorney.

Again, no one has admitted issuing this detention order, and Mr. Benefiel can't recall giving the no-phone-calls instruction. The justification for the detention is even flimsier than for the second detention. According to letters provided by Kimberlin's attorneys to the prison, the findings of the hearing officer and information provided to the Subcommittee by the Justice Department, Kimberlin had called his attorney's office and the receptionist, without informing Kimberlin, had forwarded his call to the appropriate attorney who was in another building. A subsequent Bureau hearing not only cleared Kimberlin of any guilt, but criticized the prison for sending the matter out for a formal review.

On the same day that Kimberlin was thrown in "the hole" for the third time, Bureau Director Quinlan sent a memorandum to his superior, Associate Attorney General Keating, describing the "media activity" in the Kimberlin case. He began the memorandum by stating: "As you know, Kimberlin's allegations * * * have received additional media attention in the last several days."

FINDINGS

Based on the information reviewed and having been denied by the Justice Department two requested interviews, I can only conclude that the Bureau of Prisons did, in fact, take action against Brett Kimberlin for political purposes by cancelling a press conference on November 4, 1988, and placing him in administrative detention on November 4, November 7, and December 22, 1988, the primary purpose of which was to keep Kimberlin's allegations concerning Mr. Quayle out of the 1988 campaign.

As to each of these events:

(1) *Press Conference.* At the time, the Bureau of Prison's alleged "no inmate press conference" policy was either non-existent or selectively enforced and was used by the Bureau as a pretext for cancelling the press event scheduled by the prison on November 4, 1988.

(2) *First Detention.* Director Quinlan's actions were the direct cause of Kimberlin's placement in administrative detention on November 4, 1988. Director Quinlan's determination of the need to place Kimberlin in administrative detention on November 4th to protect him from other inmates contradicted the prison's own analysis of Kimberlin's safety needs and served as a pretext for placing Kimberlin in detention in order to limit his access to the media.

(3) *Second Detention.* After learning of Kimberlin's plan for a telephone press conference at the Mayflower Hotel on November 7, 1988, at 10:00 a.m., the Bureau used the information that Kimberlin had made an unallowed third party telephone call to the Dukakis campaign on November 4th as a pretext for returning him to detention on November 7th at 9:45 a.m., in order to prevent his telephone call to reporters and otherwise limit his access to the media.

(4) *Third Detention.* After several media stories in December 1988 describing Kimberlin's allegations and treatment by the Bureau of Prisons, the Bureau used information that Kimberlin had made a third party telephone call to his attorney as a pretext for returning him to administrative detention a third time on December 22, 1988, again in order to limit his access to the media.

UNANSWERED QUESTIONS

The information available to date leaves a number of specific questions about the Kimberlin matter unanswered:

Who from the Bush-Quayle campaign called the Bureau of Prisons on November 3, 1988, to ask about the NBC interview, and what was said?

Was the "no inmate press conferences" policy in existence on November 4, 1988; why hasn't the Bureau ever placed that policy in writing; and why wasn't it applied to the monthly press conferences held by former Congressman Hansen?

Who told Mr. Quinlan on November 4th that Kimberlin feared for his safety, and when did that occur?

Who released Kimberlin on November 5th?

Who ordered Kimberlin's second detention on November 7, 1988, and what was the Bureau's Washington office involvement, if any?

Why did Lt. Monk write up the incident report on Kimberlin's unallowed third party call to the Dukakis campaign on the morning of November 7th rather than the afternoon of November 5th, and how was the prison able to process that incident report within 15 minutes?

Who ordered Kimberlin's third detention on December 22, 1988, and what was the Bureau's Washington office involvement, if any?

Who limited Kimberlin's right to use the telephone during each of the three detentions and why?

What was the reason for heightened monitoring of Kimberlin's telephone calls; why were tapes of those calls sent to Director Quinlan; and what was done with the information?

What was the extent and purpose of all contacts by the Bush-Quayle campaign with either the Bureau of Prisons or the Department of Justice on this matter?

These specific questions cannot be answered until, at a minimum, interviews with Mr. Quinlan and Mr. Miller are conducted. Interviews of top officials from the 1988 campaign and the Justice Department may also be needed. Without this additional information, the evidence accumulated to date indicates that, in 1988, the Bureau of Prisons cancelled the prison's press conference and repeatedly placed Kimberlin in administrative detention for political purposes.

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[U.S. District Court, Northern District of California, Case No. C-88-2570 CAL]

DANNIE MARTIN, THE CHRONICLE PUBLISHING COMPANY, AND NANCY HOFFMAN, PLAINTIFFS, *v.* R.H. RISON, WARDEN FOR THE UNITED STATES PENITENTIARY AT LOMPOC, CALIFORNIA; TOM CURD, ASSISTANT WARDEN; PAUL HOFER, EXECUTIVE ASSISTANT TO THE WARDEN; JERRY WILLIFORD, DIRECTOR, WESTERN REGION, FEDERAL BUREAU OF PRISONS; MICHAEL QUINLAN, DIRECTOR, FEDERAL BUREAU OF PRISONS; AND THE FEDERAL BUREAU OF PRISONS, DEFENDANTS

DECLARATION OF GEORGE HANSEN IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION AND SUMMARY JUDGMENT

I George Hansen, declare:

1. I am a former member of the United States Congress, having served for seven terms as a Congressman from the State of Idaho. I make this Declaration based upon my personal knowledge, and if called as a witness, I could competently testify to the truth and accuracy of the statements herein.

2. I served a six month federal prison term in 1986 on a charge of filing false financial disclosure statements. Because I allegedly violated a parole condition that required me to stay in the State of Virginia, I was returned to federal prison in April of 1987 for approximately six more months. I was incarcerated at the Federal Prison Camp at Petersburg, Virginia, during both my 1986 and 1987 prison stays.

3. While incarcerated at the Petersburg Federal Prison Camp, I wrote a provocative article entitled "The American Gulag" that was published with my byline in the *Freedom Magazine*. The Bureau of Prisons was well aware of my by-lined article. Thousands of petitions protesting my incarceration were sent to the White House, the Directors of the Federal Bureau of Prisons and the United States Parole Commission, and my Warden at the Peterburg Federal Prison Camp. Many of these petitions enclosed copies of my "American Gulag" article. In addition, copies of the "American Gulag" article were mailed to me in prison, and prison authorities reviewed my mail prior to my receipt of that mail. Finally, based on my observations, my by-lined article was common knowledge among prisoners and prison staff at the Petersburg Federal Prison Camp.

4. I gained substantial notoriety while I was in federal prison. Once every month of my incarceration, I conducted a press con-

ference with television, radio and newspaper reporters. Sometimes over ten reporters and several television cameras were present for these press conferences. Holding these press conferences was not merely approved, but was actually suggested, by the Federal Bureau of Prisons to accommodate press interest in me, my incarceration and my views on the federal prison system.

5. As a federal inmate I was an outspoken advocate for my fellow inmates. For example, while I was in federal prison, I testified in Washington, D.C., before the House Select Committee on Narcotics on the spread of AIDS in prisons. I also complained about prison conditions to numerous journalists. For example, I wrote to Columnist Jack Anderson about the serious health hazards from prison food preparation and handling. As reflected by the attached nationally syndicated columns by Jack Anderson, my written criticisms were quoted word-for-word and extensively in Mr. Anderson's columns. Other magazines, such as *Human Events* and *Spotlight Magazine* also quoted me extensively while I was incarcerated.

6. I was never punished during my incarceration for having a bylined article published. Nor was I ever even made aware of any prohibition on bylines or compensation for writers of articles in newspapers and magazines.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th day of Nov. 1988, in Washington, D.C.

GEORGE HANSEN.

Mr. LEVIN. 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 (Mr. WIRTH). Without objection, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT—H.R. 5006

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may at any time, notwithstanding the provisions of rule XXII, proceed to the consideration of the conference report on the defense authorization bill, H.R. 5006; and that when the conference report is considered, it be considered under the following limitations: that there be a time limitation for debate of 90 minutes, with the time controlled as follows: 60 minutes under the control of the two managers, or their designees, and 30 minutes under the control of Senator GLENN.

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

## MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT—H.R. 5006

Mr. MITCHELL. Mr. President, I ask unanimous consent that the agreement be modified to make clear that if this matter is taken up while the pending measure is before the Senate, that the time used on the DOD authorization be counted against the 30 hours postcloture on the pending NIH authorization bill.

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

Mr. MITCHELL. 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.

## UNANIMOUS-CONSENT AGREEMENT—H.R. 5677

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may, at any time, notwithstanding the provisions of rule XXII, proceed to the consideration of the conference report and the amendments in disagreement to the Labor HHS appropriations bill, H.R. 5677, that no amendments to any amendments in disagreement be in order thereto; and that there be a time limitation for debate of 1 hour on both the conference report and the amendments in disagreement, equally divided between the two managers, or their designees, with an additional 20 minutes for debate under the control of Senator GRAHAM; provided that managers amendments be in order if the House further amends any amendments in disagreement.

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

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

The PRESIDING OFFICER. The clerk will 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.

## MORNING BUSINESS

Mr. EXON. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for not more than 10 minutes each.

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

## THE 1992 12-DAY PRE-GENERAL REPORTS

The filing date of the 12-Day Pre-General Report required by the Federal Election Campaign Act, as amended, is Thursday, October 22, 1992. The mailing date for the aforementioned report in Monday, October 19, 1992, if postmarked by registered or certified mail. If this report is transmitted in any other manner is must be received by the filing date. All Principal Campaign Committees supporting Senate candidates in the 1992 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise campaign committee personnel of this requirement.

The Public Records Office will be open from 8 a.m. until 9 p.m. on Thursday, October 22, to receive these filings. In general, reports will be available the day after receipt. For further information, please contact the Office of Public Records on (202) 224–0322.

## THE 1992 30-DAY POST-GENERAL REPORTS

The mailing and filing date of the 30-Day Post-General Report required by the Federal Election Campaign Act, as amended, in Thursday, December 3, 1993. All Principal Campaign Committees supporting Senate candidates in the 1992 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise campaign committee personnel of this requirement.

The Public Records Office will be open from 9 a.m. until 5:30 p.m. on Thursday, December 3, to receive these filings. In general, reports will be available the day after receipt. For further information, please contact the Office of Public Records on (202) 224–0322.

## THE 48-HOUR NOTIFICATIONS

The Office of Public Records will be open on three successive Saturdays and Sundays from 12 noon until 4 p.m. for the purpose of accepting 48-hour notifications of contributions required by the Federal Election Campaign Act, as amended. The dates are October 17 and 18, October 24 and 25, and October 31 and November 1. All principal campaign committees supporting Senate candidates in 1992 must notify the Secretary of the Senate regarding contribution of $1,000 or more if received after the 20th day, but more than 48 hours before the day of the general election. The 48-hour notifications may also be transmitted by facsimile machine. The Office of Public Records fax number is (202) 224–1851.

## IN SUPPORT OF LEAHY AMENDMENT TO THE FISCAL YEAR 1993 DOD AUTHORIZATION

Mr. KERREY. Mr. President, I rise in strong support of the amendment offered by Senator LEAHY to impose a 1-

year moratorium on the sale, transfer or export of antipersonnel landmines.

The amendment also calls on the President to demonstrate leadership in an area where America's leadership is critically needed—to go much further than a 1-year moratorium by leading the international community in an effort to prohibit the sale, transfer or export of landmines.

The end of the cold war has brought with it tremendous opportunities to reduce and control the proliferation of nuclear and nonnuclear weapons around the world, but those opportunities demand that we demonstrate leadership within the international community. We have made progress recently with treaties to curb conventional forces in Europe and strategic weapons with the former Soviet States. We have made progress here in the Senate recently by adopting a mutual ban on nuclear testing. We must add to that effort measures to control the proliferation of antipersonnel landmines.

To understand why we need only look at the graphic results of the unrestricted laying of landmines in Afghanistan, Nicaragua, Mozambique, Angola, Sri Lanka and other conflicts. While the intended targets may be forces opposing the layers of the mines, all too often the true victims are children and other noncombatants. In the name of fighting a war, the minelayers sow terror and the trauma of living, and maybe dying, with grievous injuries and disabilities.

Nowhere is this more true today than in Cambodia. No one knows how many mines have been laid, what types of mines have been laid, where they have been laid, which factions have laid them, which country produced them, and so forth. The result is chaos, terror, and the highest percentage of physically disabled inhabitants of any country in the world.

The mines that are being detonated by civilians clearly miss the mark if the objective is to hit combatants. They are laid along footpaths, rice paddies, riverbeds, and around villages. According to a March 1991 survey conducted by representatives for Asia Watch, there are now 30,000 amputees in Cambodia, with an additional 5,000 to 6,000 living in refugee camps along the Thai-Cambodian border. They conclude that "These grim statistics mean that the Cambodian conflict may be the first war in history in which landmines have claimed more victims—combatants and noncombatants alike—than any other weapon."

It is estimated that, for every victim who survives the injuries from the explosion, another dies. For those who do survive and who must then undergo amputations, the prospects of rehabilitation are grim. The number of prosthetics turned out each year average 1,300—falling far short of the demand. Only 1 in 8 amputees receives an artificial limb, and most of them are soldiers.

These landmines are a major obstacle to the successful repatriation of Cambodian refugees who have lived for years on the Thai-Cambodian border. In the absence of an aggressive mine-clearing operation, which is still not in place, repatriation cannot proceed safely.

On a trip to Cambodia in 1990, I visited a clinic treating landmine victims in a refugee camp on the border. The conditions were appalling and the suffering extreme. And, even more troubling, the future for these amputees was grim in a country where access to prosthetics is very limited and where society treats them like pariahs. I urge my colleagues to support this amendment which can help prevent future situations like we see in Cambodia. And I urge the President to take the lead in the international community to curb the proliferation of these devastating weapons.

## THE FISCAL YEAR 1993 TRANSPORTATION APPROPRIATIONS BILL

Mr. KERREY. Mr. President, I rise to express my strong objections to the conference agreement on the fiscal year 1993 transportation appropriations bill. Had there been a recorded vote on the conference report, I would have voted no.

While I understand that spending constraints impose heavy burdens on appropriations legislation, the allocation of highway funds in this conference agreement imposes an undue burden on Nebraska. Nebraska's allocation of highway funds in the conference agreement is $10 million less than the figure in the bill when it passed the Senate. A $10 million cut will impose serious hardships on a rural State like Nebraska where highway construction needs are great and where potential job creation would be of great benefit.

In the first year in which the new highway authorization legislation is in place, it is unfortunate but not surprising that Nebraska's allocation is so restrictive. Unfortunately, the authorizing legislation, which passed the Congress and was signed by the President in late 1991, included a formula that disadvantaged Nebraska. Under the final conference agreement on the highway legislation Nebraska will receive $87 million less than in the version which passed the Senate over the 5-year authorization period.

While there are problems with the underlying highway authorization legislation, I intend to work with Senator EXON to address this situation in next year's appropriations legislation.

## START TREATY RATIFICATION

Mr. KERREY. Mr. President, I rise in support of ratifying the START Treaty. This is a vital treaty, an essential treaty. I didn't always feel that way. When the Soviet Union dissolved into 15 countries, when those successor countries renounced communism and came under leadership that was friendlier to us, when the economic problems in the former Soviet Union seemed to affect their military readiness, and especially when, last June 17, Presidents Bush and Yeltsin agreed on weapons reductions far below the START levels, it seemed to me that START's relevance had faded. But when we reviewed the treaty in the Intelligence Committee, to determine whether the treaty could be monitored and verified by our Intelligence Community, I recognized that for several reasons, this treaty is key to a peaceful transition away from the cold war.

First, START provides a method for reducing nuclear arms. Its mix of cooperative measures—inspections, measurements, transmission of missile test telemetry in the clear—provides a system and a recurring, reassuring routine by which these weapons can be reduced. The cooperative measures and unilateral intelligence capabilities can, together, provide us and the former Soviet signatories with confidence in the process. The same methods ordained by START can and almost undoubtedly will be used to carry out the reductions required by the Bush-Yeltsin agreement. The parties know these methods work because we and they use some of them to enforce the INF and CFE Treaties.

Second, START works toward our longer range interest, which is stability in the former Soviet Union. In the course of carrying out their START obligations, the new Republics of Russia, Byelarus, Ikraine, and Kazakhstan will have to cooperate with each other, since they together are the Soviet Union's successor for the purposes of arms reduction under START. Their militaries will have strong reasons to share data and to coordinate. The possibility of inspections under START will also encourage the smaller Republics to meet their commitments to gradually cease to be nuclear states. START reduces the risk that these countries will fight each other. That's a key goal for us, especially if the fight could become nuclear.

Third, START helps stabilize the former Soviet Republics because it encourages them to be responsibile and mature. It brings Ukraine, Byelarus, and Kazakhstan into the world of grownups on the international stage. No longer are they the artifical creations of some long-deceased Soviet mapmaker. START makes them signatories to a nuclear weapons reduction treaty with the strongest nation on Earth. I can think of no better way to bring maturity and responsibility to these new republics than to have them playing in our league, required to send

inspection teams to the United States and to receive ours in their countries.

But I am concerned about the ability of the former Soviet signatories to carry out their obligations under the START. These countries are undergoing terrible financial crises, their resources are very poorly distributed. I note the administration's stated belief that each of the parties is capable of paying its portion of the START costs, but I also note that Ukraine has already asked informally for a reallocation of the costs. I doubt if this will be the last such request, because these countries are truly strapped. It is in our long term interest to respond favorably.

They are also strapped for know-how. If they can't destroy their missiles and warheads safely, and if our cosignatories, who lived through Chernobyl, don't have confidence in their destruction methods, START won't work. We shouldn't wait for their request for technical assistance in START-mandated destruction, we should be preparing now to provide it. No country in the world can match out expertise in demilitarizing these missiles and warheads.

The last thing anyone wants to hear about START, or any other treaty, is that it will involve us spending money in another country. There is nothing in START that says we have to, either. But if we don't offer financial and technical assistance so that these impoverished countries can abide by START, we run the risk of losing the greatest opportunity presented by our victory in the cold war.

## NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. JOHNSTON. Mr. President, it is appropriate that we are considering the conference report to S. 2, the Neighborhood Schools Improvement Act, upon the recent release of the 1992 edition of the National Education Goals Report. The report is a timely reminder of what our purpose should be when we consider educational reform measures.

Perhaps the most important message contained in the report for students, parents, and policymakers is that we are in danger of becoming too complacent about academic achievement and performance. Evidence suggests that too many of our notions about educational achievement are rooted in misperceptions about innate ability and not in the reality of hard work and effort.

In addition, many of us are not realistic about the educational demands of the changing global economy. For example, we do not have enough programs for noncollege-bound students who, now more than ever, must have the ability to quickly create and adapt to new technologies in order to compete effectively.

Our mandate is clear, and the objectives of Federal support for education must be targeted even more effectively. This brings me to the issue before the Senate today.

The purpose of the Neighborhood Schools Improvement Act is to codify the national educational goals under a framework which can be achieved by the year 2000. And the question before us today is, will this legislation help in achieving these goals? I think that it does.

This bill strengthens our resolve to enhance the role of public education. Funds will be targeted directly to help those schools which have the greatest needs. And, without question, our public schools must be the backbone of the effort to reform education in the United States.

The Neighborhood Schools Improvement Act will do much to provide the resources needed to restore confidence in our public schools, especially in my home State, Louisiana. The bill will provide $16.9 million for my State's public schools, which are in need of increased support.

According to the Louisiana State Department of Education, over 787,000 students attend Louisiana public schools and we spend an average of $3,641 per student, which ranks our State 42d in the Nation. The programs that can be implemented by this act will afford my State the opportunity to extract even more value for every dollar spent on education.

Under this legislation, our local school districts will have the opportunity to create innovative, cooperative educational ventures to benefit all of our students, teachers, and families. It will concentrate on, among other things, our efforts to save the 9,394 students in my State who dropped out of school last year, and the potential dropouts who will be denied opportunity to gain the necessary skills to fulfill their lives. If we do not address the needs of such students, the cost to our future will be crippling.

We need more legislative initiatives such as this to foster a cooperative effort of policy, public opinion, compassion, and courage. By allowing for local input, where the decisions about our educational priorities should be made, we honor the tradition of community based American public education.

Finally, we must recognize, as Jonathan Kozol points out in "Savage Inequalities", that our Nation's best public schools are also the best schools in the world. Many have argued for the abandonment of many of our most impoverished public schools. But, in my view, this subverts the intent of real reform. The problem is not that we do not have great schools; it is that we do not have enough of them.

I believe that the Neighborhood Schools Improvement Act will create incentives for an expansion of public schools of excellence and achievement. It will add to the number of our great public schools and provide an impetus for all students to achieve their goals and our Nation's goals.

## NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Ms. MIKULSKI. Mr. President, our education system is in big trouble and we all know it. The Neighborhood Schools Improvement Act is a big step in the right direction.

This bill establishes broad national goals toward which State and local school systems and individual schools can work.

These goals allow schools the flexibility to develop and try innovative methods, but give the necessary framework to assure that we're all moving in the same direction.

This is an important step forward because we want to improve all our schools and be able to borrow the best ideas from each other toward meeting mutual goals.

Mr. President, I want all American children to start school ready to learn. That's why I'm glad this is one of the goals in this bill.

I also want American students to graduate from high school. We know that 25 percent of current jobs will disappear before the end of this century—they just won't exist any more. What jobs are these? They're the jobs that don't require a high school diploma.

Mr. President, the goal under this bill to increase the rate of high school graduation is critical to our national well-being because our jobs are at stake.

It's also critical that our students get the math and science skills to compete for the jobs that will take the place of the lost jobs I just spoke about.

Making our students No. 1 in the world in math and science is another goal in this bill. I know we can do it, but we need the national commitment and focus that this bill gives.

And who can argue against the goal to rid our schools of the drugs and violence that have threatened our children?

Mr. President, goals are important. They are important because they keep us focused on our future, the future of Maryland's students, and future of students all across America.

My State has an innovative education reform plan called Schools for Success. The support that Maryland could get from S. 2 would add the financial spark Maryland schools need to get this plan going. The plan is aimed at comprehensive school improvement and reform.

S. 2 will allow the State to set up more regional staff development centers. These centers will better train the teachers in our classrooms.

It will also allow the State to award challenge grants to schools to develop annual improvement plans and strengthen the Maryland school performance program. My State needs this help.

Mr. President, I submit that we all need this help. We must make this investment in improving our schools. The promise of education is too precious to squander. I want the best for our children and our future.

Mr. President, there is much to like about this bill, but I want to mention a few things that I especially like.

First, it is based on the premise that the best solutions to the problems facing the schools will come from local schools, parents, teachers, business people, administrators, and students—not from the Federal Government. I couldn't agree more with this premise.

Second, this bill deals with improving all our schools in a comprehensive manner.

Third, it gets money down to the individual school level—at least 80 percent must reach the local level after the first year. We don't need or want to fund bureaucracies at the State or local level. We need money to be in the hands of the people on the front lines.

Fourth, it demands that schools that participate in the improvement grants program actually improve. If they don't improve in the area they are working on, funds are cut off. We don't continue to pour good money after bad. Schools are held accountable.

Fifth, it continues development of education content standards. As a nation, we need to know if we are progressing in meeting our goals.

And finally, Mr. President, it contains a provision to fund tests in 10 States in which schools will be freed from regulatory requirements.

Mr. President, I am pleased to support the bill we are considering today.

We are in a war for America's future. And the future of our children is at stake.

It's time we stopped fooling around and stopped talking about the need for school reform and, instead, actually do something about it.

We need this bill to add some fuel to the fire we must light under the educational system in this country.

## THE CONFERENCE REPORT TO THE CRIME BILL

Mr. GORTON. Mr. President, in June 1988, Chief Justice Rehnquist formed the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases in response to widespread frustration with the criminal justice system's inability to administer fairness and justice in cases dealing with the death penalty. The committee was chaired by retired Associate Justice Lewis F. Powell and included several highly respected judges from the fifth and eleventh circuits which experience the highest numbers of death penalty cases.

The committee's findings in 1989 included the following statement:

> The fundamental requirement of a criminal justice system is fairness. In habeas corpus proceedings fairness requires that a defendant be provided a searching and impartial examination of his claims. Fairness also requires that if a defendant's claims are found to be devoid of merit after such examination, society is rightfully entitled to have the penalty prescribed by law carried out without unreasonable delay.

Rather than responding to that appeal, the conference report that is before us again instead overturns the Supreme Court's habeas corpus decisions that keep convicted criminals in prison and limit obstruction of the death penalty. In addition, the conference report would require the reversal of convictions based on harmless error despite independent overwhelming evidence of guilt. The conference bill also has provisions which would shorten the prison terms of many Federal offenders.

Mr. President, it is the habeas corpus provisions in the conference report that concern me the most. These provisons not only ignore the appeal of the Powell Commission, they intentionally reverse the progress the Supreme Court has made to alleviate the delays in our justice system. In Barefoot versus Estelle (1983), the Supreme Court encouraged the lower Federal courts to give expedited consideration to habeas corpus petitions in capital cases, and held that stays of execution are not automatically granted in the course of habeas corpus litigation in such cases.

The conference bill, however, overturns this decision and increases delay by imposing an automatic stay of execution in all capital cases which continues through the litigation of a habeas corpus petition. A position more consistent with the Powell Commission is the Thurmond-Gramm Crime Control Act of 1992 which goes beyond Barefoot in reducing delay by providing for a 180-day time limit for filing habeas corpus petitions in capital cases and sets definite time limits for Federal courts to finish the litigation of such petitions. That is progress in achieving fairness in our criminal justice system.

A closer look at the fine print of the conference report confirms the belief shared among many that the Democrat's crime bill is a lawyer's dream. For instance, in Murray versus Giarratano (1989), Pennsylvania versus Finley (1987), and Ross versus Moffitt (1974), the Supreme Court has held that States are not required to provide appointed counsel at the later stages of litigation—collateral and discretionary review proceedings—which come after trial and appeal. The conference bill overturns these decisions as well and requires in capital cases States to appoint at least two lawyers to represent capital defendants at all stages of litigation, including collateral and discretionary review proceedings. Such a requirement, again, will simply add to the delays and costs already prevalent in our legal system.

Another common abuse in capital cases is efforts by defendants and their attorneys to overturn convictions by raising claims in Federal habeas corpus proceedings that were never presented to State courts. Even in the Warren Court period, the Supreme Court placed some limits on this abuse, holding in Fay versus Noia (1963) that a Federal court may dismiss a claim if it was deliberately withheld in the State proceedings.

Recent decisions of the Court have imposed more stringent restrictions on this abuse. A prisoner generally must show cause; that is, a clear justification—for failing to raise a claim earlier. Alleged error by a defendant's lawyer in failing to raise a claim is no excuse unless the error amounted to constitutional ineffectiveness of counsel. In addition, in Sumner verus Mata (1981), the Supreme Court strengthened a rule that requires Federal habeas corpus courts to respect the Federal determinations of the State courts that rejected a prisoner's claims.

The conference bill overturns all of these decisions and all appointments of lawyers in State capital cases would have to be made by a defender organization, a capital defense resource center, or a special committee of criminal lawyers, not by judges. At least two lawyers would have to be appointed at all stages of litigation, and these lawyers would have to meet qualifications standards which exceed those that Congress has provided for Federal capital cases. Again, we can see why this legislation has so much support by lawyers.

In contrast, the proposed Thurmond-Gramm crime bill, S. 2305, provides effective reforms to curb the abuse of habeas corpus that thwarts the use of State death penalty laws and undermines the criminal justice process in every type of criminal case. The reforms include definite time limits for Federal courts to conclude the litigation of habeas corpus petitions so that lawfully imposed death sentences can be promptly carried out, and strict limitation of repetitive habeas petitions. In addition, the Thurmond-Gramm Crime Control Act provides for time limits on the filing by prisoners of habeas corpus petitions attacking their convictions or sentences, and a rule upholding reasonable decisions by State courts rejecting prisoners' claims.

The issue of habeas corpus is arcane and usually reserved for law school classroom debates. However, its relevance here cannot be overstated. The impact of the Democrats' conference report would be devastating to efforts to reform and improve the fairness and efficiency of our criminal justice sys-

tem. We cannot afford to take a step backwards and create more impediments to justice. Although this conference report contains a variety of reasons to oppose it, mostly due to the fact that Republicans were left out of the critical House-Senate conference, the habeas corpus provisions are reason enough for this Senator to oppose a motion to proceed to consideration.

## THE 20TH ANNIVERSARY OF RHODE ISLAND HEALTH CENTER ASSOCIATION

Mr. PELL. Mr. President, this October marks the 20th anniversary of the Rhode Island Health Center Association, the organization that represents Rhode Island's community health centers. As a strong and longtime supporter of our Nation's community health centers, and as a Rhode Islander who is very proud of the excellent work of, and quality care provided by, Rhode Island's community health centers, I would like to offer my congratulations and best wishes to all those affiliated with the Rhode Island Health Center Association, including its hard-working and dedicated director, Barbara Colt.

Mr. President, I recently received the September 1992 issue of the Community's Health, the newsletter of the Rhode Island Health Center Association. The cover page contains an excellent article describing the association and its history and goals. I ask unanimous consent to include in the RECORD, at the conclusion of my remarks, the article entitled "Association's Twentieth Anniversary," and would like to take this opportunity to wish Rhode Island's community health centers, their staffs, and their patients, a healthy and successful future.

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

[Newsletter of the Rhode Island Health Center Association, September 1992]

ASSOCIATION'S TWENTIETH ANNIVERSARY

In October, the Rhode Island Health Center Association will mark its twentieth anniversary. The Association was founded to promote the development of a sound system of high quality primary health care for all and to advance the work of community health centers.

Community health centers are organizations governed by the people they serve. They provide primary care, address the health needs of their community, and care for people regardless of their ability to pay. In 1992, the goals of the Association haven't changed, but the environment in which they operate is vastly different.

Community health centers are no longer small, store-front clinics with volunteer doctors and nurses delivering minimal primary care. There are now fourteen community health centers in Rhode Island providing the full range of primary health care services to almost 60,000 people, in every part of the state. Although each center is a private, non-profit, charitable organization, the network of centers functions as the state's public health system, but without the sufficient public funding that such a responsibility demands.

As for the health care environment, the emphasis has been on developing sophisticated and expensive technologies for complicated diseases. It has often been done at the expense of basic prenatal, pediatric, and adult health care which might, if rendered early and appropriately, prevent serious and chronic disease and, hopefully, the financial and personal cost of treatment.

An even more detrimental trend, however, has been the erosion of concern for providing good health care for people who are poor or have limited resources. Every day, there are more and more people without health insurance. Practically daily, the cost of health care escalates, putting it out of the reach of even middle-income families. The anguish, frustration, and just plain fear which these developments cause is real and damaging to people's mental and physical well-being.

We hope that the hallmark of our twenty-first year is a renewed commitment on the part of the political and medical establishment to get serious about ensuring proper health care for everyone.

## ALAN CRANSTON: CRUSADER FOR PEACE

Mr. PELL. Mr. President, it was with a true sense of sadness and regret that I learned of the coming departure of our colleague and friend, the distinguished senior Senator from California, ALAN CRANSTON.

I have long admired Senator CRANSTON for his courageous espousal of the many causes in which we shared a common commitment, most especially his crusade for arms control. It was because of his unwavering dedication to reduction in armaments that I enthusiastically supported his candidacy for President in 1984.

For almost 24 years, ALAN CRANSTON has been in the forefront of the campaign for world peace. It is perhaps fitting that he should choose to retire now that the cold war has ended, for it was his concern over the threat of nuclear arms which first brought him to the Senate. Since that time, no issue was too small or too large for him to take on in his quest to make the world a safer better place in which to live.

In his first term, Senator CRANSTON was a very active participant in the Senate deliberations on the interim Strategic Arms Limitation Treaty in 1972, and called for deep reductions in SALT II. As Whip, he organized a bipartisan, informal SALT Study Group to discuss ways of controlling the spread of nuclear arms. He was an original cosponsor of the Nuclear Nonproliferation Act of 1978, which tightened nuclear exports standards and safeguards.

He has always been quick to use the Senate's bully pulpit to focus the Nation's attention on the dangers of nuclear proliferation, whether it was his 1980 fight to oppose the sale of nuclear fuel to India or his speeches early in 1981 which drew attention to the danger of nuclear programs in Pakistan, India and Iraq.

Recently, as a member of the Foreign Relations Committee and chairman of the Subcommittee on East Asia and Pacific Affairs, he held a series of hearings to draw attention to North Korea's nuclear weapons program, as well as that of the People's Republic of China.

From his early days, ALAN CRANSTON was a crusader against man's inhumanity to man and a vigorous advocate for the rule of law. In 1939, he translated a version of Hitler's "Mein Kampf" draw the American people's attention to the implications of the Nazi program.

As a member of the Senate, he worked to make human rights a cornerstone of American foreign policy. He joined with Hubert Humphrey to win adoption of 1975 legislation which curbed U.S. aid to dictators. He supported conditions of United States aid to El Salvador, and he led efforts to secure emigration rights for Soviet Jews.

Most recently he tenaciously led the fight on the Senate floor to reverse the Bush administration's policies toward Cambodia. Today there are United Nations forces in Cambodia, due in good part to ALAN CRANSTON's insistence that an American policy of supporting warring Cambodia factions was not going to lead to a Cambodian peace.

ALAN CRANSTON was an early supporter of United States recognition of the People's Republic of China, but he always believed that the Chinese people were more important than the Chinese Government. When the massacre in Tiananmen Square took place in June 1989, he was one of the first Senators to introduce legislation ending most-favored-nation treatment for China. Diplomatic relations and trade have always been perceived as a means to the end, which is achievement of freedom and democracy—but not the end itself.

ALAN CRANSTON is bringing to a close a truly remarkable senatorial career. It can best be summed up, I believe, by saying that ALAN CRANSTON has been, above all, an ardent crusader for peace, a vigilant guardian of human rights and a ready opponent of injustice wherever it appeared. I can think of no higher levels of accomplishment to which any of us could aspire.

## TRIBUTE TO WILLIAM PENN MOTT

Mr. CRANSTON. Mr. President, I rise to pay tribute to William Penn Mott who died on September 21.

Many of my colleagues will remember Bill Mott as the director of the National Park Service from 1985 to 1989. But they may not be familiar with Bill's long and distinguished career in parks and recreation at all levels of government. Bill first worked for the National Park Service from 1933 to 1946

when he became parks superintendent for Oakland, CA. In 1962 Bill Mott was named general manager of the East Bay Regional Park District, the largest regional park in the Nation. From 1967 to 1975 he served as director of the California Department of Parks and Recreation under Governor Reagan. He then served as general manager of the East Bay Zoological Society in Oakland before being named director of the National Park Service. After stepping down as NPS director, Bill Mott returned to California where he continued to work for the Interior Department as a special assistant to the NPS western regional director until his death.

I first met Bill Mott years ago in California and was enormously pleased with his appointment as NPS Director. Bill gave early encouragement to my efforts to protect the California desert, and most especially for national park status of Kelso Dunes and surrounding lands in the East Mojave. He worked well with both Democrats and Republicans. He was courteous and mild mannered, and also a strong voice for and champion of preservation and parks throughout his life.

We shall miss Bill Mott.

## JOSEPH L. RAUH, JR.—A FEARLESS FIGHTER FOR JUSTICE

Mr. KENNEDY. Mr. President, on September 3, 1992, the Constitution and the country lost one of their greatest defenders when Joseph L. Rauh, Jr. passed away. I extend my deepest sympathy to Olie Rauh, Joe's wife of 57 years, and to the entire Rauh family.

Joe Rauh was a lawyer's lawyer. A graduate of Harvard College and Harvard Law School, he served as a law clerk for Justices Benjamin Cardozo and Felix Frankfurter. He then became one of the young Turks who made the New Deal work, and he played an important role in America's mobilization at the beginning of World War II, before enlisting and serving in the Pacific.

Following the war, Joe Rauh entered private law practice, where he was a consistent champion of individual liberty. He defended playwrights Lillian Hellman and Arthur Miller against congressional excesses during the McCarthy era. And he represented many outstanding leaders of organized labor, including Jock Yablonski and Walter Reuther.

Even in the face of many setbacks, Joe Rauh maintained his wonderful humor and good cheer. Of his years in practice, he said, "Others made all the money, but we had all the fun." And I would add, he made all the difference.

For more than half a century, Joe Rauh was the conscience of civil rights in America. He helped to draft the civil rights plank at the 1948 Democratic Convention, a key first step in the struggle to remove the stain of discrimination from the fabric of America. As counsel to the Leadership Conference on Civil Rights, he was a leader in all of the historic legislative battles to enact into law the Constitution's great promise of equal justice for all. No one fought harder or better than Joe Rauh to resist efforts to stack the Supreme Court with Justices who would turn back the clock on civil rights.

Here in the Senate, whenever constitutional rights and liberties were at issue, Joe Rauh would be in the Senate reception room just off the floor, or walking the Halls of the Capitol and the Senate office buildings, urging Senators to cast a vote of conscience. He was a beacon of principle cutting through the fog of political debate. I sought his wise counsel many times over the years on legislative strategy and Supreme Court nominations and he gave it generously, with wit, grace, surpassing intelligence, and always straight from the heart.

Looking back on America's accomplishments in his lifetime, Joe said, "I'm proud of our laws. What our generation has done is bring equality in law. The next generation has to bring equality in fact." All of us who knew Joe and loved him will miss him deeply in the years ahead. His greatest memorial will be to rededicate ourselves to working, as he did, to fulfill the Constitution's great promise of equal justice under law.

Last Sunday, September 27, nearly a thousand people attended a memorial service for Joe here in Washington. The list of speakers reflected the breadth and richness of Joe's extraordinary life: Senator Tom Eagleton, Roger Wilkins, Arthur Schlesinger, Jr., Arthur Miller, and Katharine Graham joined Joe's family in paying tribute to this exemplary American.

I ask unanimous consent that their tributes and other materials be printed in the RECORD.

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

JOSEPH L. RAUH, JR., JANUARY 3, 1911 TO SEPTEMBER 3, 1992

(Memorial Service, September, 27, 1992)

QUOTES FROM JOE RAUH

"Do your best and don't take yourself too seriously."

"Others made all the money, but we had all the fun."

"Everybody knows that lawyers are rated below sanitation workers in public esteem but even the legal profession affords those who will take it the opportunity to work in the public interest and the joy that comes with such work."

"I'm proud of our laws. What our generation has done is bring equality in law. The next generation has to bring equality in fact."

"I believe the organizations that comprise the Leadership Conference on Civil Rights can one day build a truly equitable society. Having accomplished so much we should be bold enough to try for more."

"The legal profession should be one that places public interest above private gain, that puts the use of legal tools for progress and equality above the defense of the status quo, that treats legal services for the have nots on a par with those for the haves, that utilizes law as an instrument for helping the powerless and not for protecting the powerful, and above all that makes the law a vehicle for righting social wrongs and not perpetuating them."

THE FREEDOM OF SPEECH MEDAL

(Presented on March 4, 1983, St. James Church, Hyde Park)

As a young man, you served Franklin Roosevelt, first as a lieutenant in the New Deal, later as a lieutenant-colonel in the Pacific war. In the years since, you have greatly exemplified the purposes that President Roosevelt affirmed in demanding Freedom of Speech as a universal obligation of nations. Your courage and eloquence in defense of civil liberties and human rights have commanded the consent of the courts and the respect of your countrymen. The working people of our land have found in you an undaunted champion. You have roused the national conscience in the struggle against injustice. You have lived faithfully by your own philosophy. In your vindication of Freedom of Speech, you have shown the power of free expression to help shape the better world of which Franklin Roosevelt dreamed.

MEMORIAL SERVICE

Rabbi Fred Reiner, Fifteenth Psalm, Twenty-third Psalm.

Suzanne Rauh, B. Michael Rauh, Jr.

Thomas F. Eagleton.

Roger W. Wilkins.

Arthur M. Schlesinger, Jr.

Arthur Miller.

Katharine Graham.

Statements of Carl S. Rauh and Joseph L. Rauh, III (read by Rabbi Reiner).

B. Michael Rauh.

Memorial Prayer: Mourners Kaddish.

Songs sung by Douglas Mishkin: "Sweet Survivor," "Weave Me The Sunshine".

DEMOCRACY'S PITCHMAN

The life story of Joseph Rauh, who died on Thursday at 81, had many histories. The most famous, perhaps, were his strenuous lobbying in behalf of every major civil rights bill from 1957 on, his battle against McCarthyism and his struggles over the conscience and membership of the U.S. Supreme Court.

He was also the proud partner of Clarence Mitchell when the two served as co-chairmen of the Leadership Conference on Civil Rights. He treasured the day when Senator Harry Byrd Sr., the Virginia segregationist, gestured toward the gallery and cried, "There they are, the Gold Dust twins."

Generations of Washingtonians enjoyed the spectacle of the private Joe Rauh holding forth on a softball diamond on Sunday afternoons. When he chose up sides with Alan Barth, the Washington Post editorial writer, he did so shrewdly and competitively after scouting the day's array of talent.

Pitching for his side, he would hurl the ball past all batters, old and young, male and female, with equal speed and spin. Later, over lemonade, he'd savor the day's political developments and tell of his hopes and worries for a Supreme Court he had revered since his time as law clerk to Justices Benjamin Cardozo and Felix Frankfurter.

He continued to think about the Court until the end. A friend who saw him at lunch Thursday heard his guarded optimism about the election and hip prediction that Democratic appointees could help correct the Court's rightward course.

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Mostly he pitched for democracy. His deep, craggy voice resonated through the halls and chambers of Congress. He demanded to be heard and he got his hearings through lean and fat years of his causes. Those who knew him will miss his attentiveness—and his pressure on others to be attentive—to human rights. Many who never knew him are the beneficiaries of that pressure and passion.

New York Times Editorial, September 5, 1992.

REMARKS OF SUZANNE RAUH

Most of you gathered here today, knew my grandfather, my Pawpaw, in a public way—through his never ending march for equal rights throughout his life time. Some of you may been a close friend, an all, you may have crossed paths, or you might have been an admirer from afar.

I had the distinct honor of being his only granddaughter.

The day I was born, my grandfather brought my mother a charm. It lit up and said "it's a girl". Pawpaw continued to light up my life for the following 30 years.

My grandfather always told me that I was one of the two other women in his life, excluding my grandmother, the other woman being Marilyn Monroe. Can you imagine being 8 years old and having to compete with those two blondes!

My grandfather was not a materialistic person, although I do recall several family occasions when he encouraged my two brothers to dance with my grandmother. I believe he offered then $5 for one dance and $15 for two.

My life has been filled with much family travel. We always spent birthdays, holidays, and anniversary together. In my growing up years our Sundays were spend at "Joe's office", that is poolside. We always ended the day with a family dinner, typically Chinese or at Arbaugh's.

It is these times that I became aware of my grandfathers contagious laughter and his keen ability to tell a story. He brought so much enthusiasm to the table, he gave us all so much pleasure. As I grew older, our Sunday's lead into tailgate parties at RFK Stadium and cheering for the Redskins.

I look back now, and I find it quite amazing that with all of his accomplishments, his interests, his battles, his dates for lunch at Duke's, Pawpaw always made time for me. No matter what the occasion, from my preschool, kindergarten, high school, college, equestrian competitions, he was always present. Never overshadowing an event, always letting me know how important I was and how much he loved me.

Pawpaw had a great love for people, for themselves, at their best and at their worst. He knew the faults of others and recognized his own. My grandfather loved his grandchildren very much. As I loved him.

I will never forget the many things in life he stood for, things which were so evident in the life he lived. I will try to keep as many of his virtues alive in me as I can, though there are a few that I cannot approach, for where my grandfather was good, he was very, very good.

I know that up there, some where, Pawpaw is sipping on his first martini of the day, sharing stories with Sachel Paige, Sammy Baugh, Mr. King, President Kennedy, Marilyn—of course, Dooyie and Carol, and a cast of thousands. So I would like to take this opportunity, to toast him for just a few of the many contributions he made to my life.

Pawpaw, I'd like to thank you for making better laws for our Nation, for caring and believing so much in your causes, for changing our country so that it would be a better place for me to live.

As my high school graduation speaker you taught my generation that it is not what you do in life but how you do it that leads to the fulfillment to which we all aspire. Thank you for being the finest example of this any person could have been.

Thanks for sharing so many nice times with me, and making so many special memories with me. For teaching me how to grow old gracefully, and with dignity. Most of all for not allowing any of us, especially yourself, to suffer from loneliness, indignities, or pain.

Thank you for teaching me how to make every minute of life count, how to keep the cup full, and live life to it's fullest. This is what you did until the very end.

Well Pawpaw, now you are gone, and I think of you, our friendship, our happiness, the love that we shared. I am trying very hard not to be sad. Instead, I smile at our memories, and I share with you the ultimate peace that I have found in knowing and loving you.

"Cheers to my Pawpaw."

REMARKS OF B. MICHAEL RAUH, JR.

I used to think I was a pretty special person because Joe Rauh was my grandfather. A couple of days after he died, a little less than a month ago, we had a small service for our family at the house and I spoke to that group, and as I stood there in front of fifteen or twenty of our closest relatives, I realized that we were all pretty special because we are all related to Joe. And as I stand here this morning and as I have seen people this morning, I realize that everybody here is very special. We are all special—not just me—not just the family—but all of us because we all knew Joe in one way or another.

I think as far back as I can remember, Joe was really a role model for me personally, and I know for probably just about everyone in this room in one way or another he was a role model as well. Probably one of the best role models you could have because every part of his life was spent in the same beliefs. He was truthful and self-true to his beliefs and so all of us were able to pick up on the things that he believed in simply by watching him live life. It really wasn't unfortunately until he died, that I started to think about many of the things that I learned from him personally and I'm sure most of you learned from him as well.

I think probably one of the most important things that we all learned from Joe was to use our personal resources for the good of other people—not for ourselves. Not just money, because anyone can give money, but what Joe gave of was himself. From his head to his toes, he gave everything he had, physically, emotionally and intellectually for the good of others.

I think most of us have respect for him because he was able to take the moral high ground on any issue that came before him. I remember whenever I was a little bit confused about things, life always seemed to be gray to me but to him it was black and white and I could always turn to him if I needed to know which way I should be going on a particular issue. One of the things that I really appreciated about him personally was that he was the kind of person who didn't believe in simply talking about the philosophy of things, he was the kind of person who believed in making things happen. He wanted to make a difference. And he made a difference in a lot of ways.

I think on a family level, he taught us all a lot about love; particularly his love for his wife, Olie. There was never a person who in my experience was more dedicated to his wife than Joe was, and I think we all learned a lot from that. Speaking of his love for his family, I remember one New Year's Eve when I was in college, I had gotten quite ill and was in the hospital, feeling pretty sorry for myself because it was about 9:00 o'clock on New Year's Eve and I was there by myself. No one was around, the family was all out celebrating—the nurses on New Year's Eve aren't the best looking nurses in the hospital—and I was lying there, watching television, waiting for the big ball to come down, and in comes Joe, in a tuxedo and an overcoat, with a bottle of champagne tucked under his arm. And my face obviously lit up, and I said, "This is fantastic. I can't believe that finally, someone remembered that I was here." Joe said, "Don't flatter yourself, kid. This was the best excuse I ever had to get out of the ballet with Olie."

He taught me a lot about many, many things. But one of the things I really appreciate the most is that he taught me to appreciate the finer points of a good, smooth Bourbon. I remember as a kid, he and I used to go to the Redskins games together—I think I was seven or eight when we started going together and I went for years and years. And on particularly cold Sundays in December Olie would pack a couple of thermoses—one for him one for me. I don't know how old I was, I must have been nine or ten probably and it was a particularly cold Sunday at RFK and I must have gone through my thermos of hot chocolate before the end of the third quarter and I started to get a little shivery. And he looked at me and said, "Here, try some of this." I can still remember that taste in my mouth. Once I got over the initial shock I thought, "Boy, this is pretty good." So I started dumping the hot chocolate in the parking lot after that—and going right for Joe's bullshot.

I think probably the thing I remember best about my grandfather is that he was the eternal optimist. You couldn't get him to say anything bad. You couldn't get him to say what was wrong. He always looked on the bright side of things. And of all the things that I appreciate about him the most, I think that's probably it. Joe's life touched a lot of people. He touched me—he touched our family—he touched all of you. He touched tens of thousands, countless people that we'll never even know about. But I think for his life to take the kind of meaning that is should, it is important that Suzanne, my brother, Terry, and I, the rest of our family, and all of you pledge to ourselves, but more importantly, pledge to Joe, that we will take the things he taught us as our role model and will apply them in the same way that he did, because in that way his life will have touched even more. Thank you.

REMARKS OF SENATOR THOMAS EAGLETON

If—God forbid—our country were someday hit with an ideological Hurricane Andrew, we could endure as free people if the Bill of Rights and the XIV Amendment were able to survive such an awesome ill wind. The Bill of Rights and the XIV Amendment constitute the bedrock of America's freedom now and forever more. This was the premise—and the promise—of Joe Rauh.

He was a lawyer who actually believed in the rule of law. He believed in the capacity of law to help fashion a more just society. To him, the law was the tool to be used affirmatively to remedy inequity. As he saw it, the Equal Protection Clause of the Constitution in practical application was quite obvious: Everyone—however situated, however tex-

tured—everyone was to be accepted and treated fairly—so Joe Rauh devoutly believed.

In my life, I have known some wonderful, refreshing, inspiring people. But I have known perhaps as few as three individuals who on all occasions—I repeat all occasions—put conscience ahead of all other considerations: Senator Mike Mansfield, Senator Phil Hart, and Joe Rauh. Whenever I needed a conscience, I knew where to turn—to Joe Rauh.

His last letter to me on May 16 of this year addressed the issue of school integration—specifically in the context of a hugely expensive and controversial high school that had been recently built in Kansas City. I had sent him an article from the Kansas City newspaper on the subject. He wrote back to me, "Yes, there seems to have been a hell of a lot of spending on the school building and the fancy athletic equipment. I can't pass judgment on that. I can pass judgment on equal educational opportunity. On that, we cannot turn back—no matter what."

In this time in which public decision-making is frozen in the end-justifies-the-means mentality, men of conscience are all the more needed, all the more precious. We have now lost the best that God can fashion.

"We" means the nation as a whole and the disadvantaged in particular. "We" means his friends and admirers here present. And "we", most of all, mean Olie, Michael and Carl. They, fortified with the moving, warm, and tender personal memories, know how fortunate we all were that the courage and conscience of Joe Rauh came America's way.

REMARKS OF ROGER WILKINS

A little more than thirty years ago, when I was preparing to come to Washington, my Uncle Roy gave me two pieces of advice: Never forget where you came from and get to know Clarence Mitchell and Joe Rauh. He didn't call them by their rightful name, "The Goldust Twins," but he made it clear that he thought they were the twin peaks of our side; the bulwarks in Washington of American decency.

It was the best advice my uncle ever gave me.

When I was young, I expected that America would solve her racial problems. I thought that the best white people in the country had internalized the nation's highest ideals and would fight for them until they were realized and that they would struggle and lead by example until the rest of white America had been brought along. It hasn't quite worked out that way.

But Joe lived up to every hope I ever had for white people. While others retreated to lower ground, Joe never gave up on the country's highest principles.

He also saw us blacks whole. He had no need to color us from the palate of his fantasy. If he encountered a black hero like A. Philip Randolph, the head of the Brotherhood of Sleeping Car Porters, (whom Joe always called "Mr. Randolph"), he saw a hero. If he encountered a black beloved colleague and friend, like Clarence Mitchell, he saw a beloved colleague and friend. And if he encountered a black bum, Joe saw a bum.

Shortly after Andy Young was fired for having had contact with a PLO representative, a leadership meeting was called at NAACP headquarters in New York. When I got there and was heading into the meeting room, I noticed Joe sitting alone in a small room just off the hallway.

"What're you doing sitting in here all by yourself, Joe?" I asked.

"Well, I got an invitation," he replied, "but now they say they don't want any white people in there."

"That's awful," I said. "I'll stay here with you."

"No," Joe said, "that's all right. Sometimes people need their privacy. Now you go on in there. That's where you ought to be."

And then there was Joe's spirit. The day after he died, Bill Taylor and I were talking about how Joe really was a happy warrior and I was dwelling on "happy" and Bill was emphasizing "warrior."

"Joe taught me a lot," Bill said. "Though he was more than twenty years older than I, there'd be times when I thought we'd been beaten and Joe would say, 'No, we've got to do something.'"

I remember sharing a platform with Joe one time in San Diego and making one of my gloomy speeches about how bad things are and how we're mired down and all that sour stuff.

Joe rushed to the microphone and said:

"Look! We've changed this nation. We used to have a legalized system of racial subordination. We've destroyed that. That's done. We may still have a lot to do, but we've changed this nation!"

A true warrior.

Joe was the full embodiment of the ideal citizen that Jefferson used to dream about. Joe gloried in his political freedom and never tired of working to keep America's promises whether they were embodied in some statute or in the Bill of Rights or in the great Civil War Amendments.

We who have lived in this town for a long time have seen a lot of puffed egos in expensive suits staggering around under big titles that were too heavy for them to carry. Joe didn't have a government title for almost fifty years and yet there was a title that he made and burnished. It grew with all his works. It was finally so large that only one man was big enough to carry it. It was the best title in town.

It was, simply, Joe Rauh.

REMARKS OF ARTHUR SCHLESINGER, JR.

Joe Rauh was a great American patriot. He believed profoundly and stubbornly and wholeheartedly in American democracy, in the Constitution, in the Bill of Rights, and he dedicated his life to making the promises of America real for all Americans. He fought for his country in wartime, and he fought for it in peacetime, and he fought always with brilliance and boundless energy and candor and joy.

Joe was the quintessential New Dealer. Yet, as an undergraduate at Harvard, he had been a football-watching, basketball-playing (Jimmy Wechsler used to say that Joe's experience playing center for losing Harvard basketball teams explained his later sympathy for the underdog), hipflask-carrying, generally roystering and rollicking fellow, who once helped tear down the goalposts in New Haven the night before The Game. His mother reproached him in later years: "I wish I had known you were going to turn out so well, because I wouldn't have worried so much about you when you were young."

His life changed at Harvard Law School when Felix Frankfurter brought the New Deal to Cambridge and found in Joe one of his most apt and devoted, if also one of his most irreverent, pupils. More than half a century ago Joe moved on to Washington and the New Deal—and never abandoned either.

He had the New Dealer's conviction that people mattered. He had an active, practical, indomitable faith in the right of free men and women to speak their minds and to use affirmative government for the general welfare and in their capacity to exercise these rights within the American constitutional order. He was anti-dogmatic and anti-sentimental; nor was he ever bothered by the prospect of power. He adored a good fight and much preferred winning to losing. He believed in the force of ideas, of reason, of debate, of persuasion. He was the conscience of liberalism in our time.

We first met in 1945 when we had both returned from the war. We both wanted to preserve the New Deal spirit from sabotage on the right and Stalinism on the left, and I gratefully followed Joe and Eleanor Roosevelt and Reinhold Niebuhr and Walter Reuther into Americans for Democratic Action. For many years Joe was the soul of ADA, the sagacious mentor, the tireless organizer, the animating and sustaining force. Liberalism, as Joe and ADA understood it, had nothing in common with communism, either as to means or as to ends. He therefore saw no role for communists in the liberal movement at home and no hope in the world beyond for a creed that murdered its dissenters and required a cruel police state to stay in power.

He was our great contemporary guardian of the Constitution. As clerk to two remarkable men, Justice Cardozo and Justice Frankfurter, he had learned both the resilience and the potentiality of the great charter of American democracy and the intricacy and precision of legal craftsmanship; and he became the foremost civil liberties and civil rights lawyer of our time. He battled for unions and for union democracy, condemned the abuses of congressional investigations and of the executive loyalty program, denounced Joe McCarthy and never hesitated to question the divinity of J. Edgar Hoover. He was the vigilant protector of the Supreme Court against improper and unqualified nominations. He was an unlimited source of aid and support to men and women in distress. I doubt that any lawyer in American history has had more impact on the Court and on Congress in the vindication of individual freedoms and in the defense of the Bill of Rights.

His passion for racial justice began early. At Harvard, when a New York hotel turned away a black basketball teammate, Joe led the whole team to another hotel. In 1941 he wrote FRD's executive order establishing the Fair Employment Practices Commission with the famous phrase mandating employment in defense industries for all "regardless of race, national origin, religion, or color." As counsel of the Leadership Conference on Civil Rights, he played a central role in the formulation and enactment of every piece of civil rights legislation.

And through it all, for all the passion of his commitment, he kept his humor and perspective. He was such a joyous man; there always remained that rollicking quality about him. He was the greatest fun to be with. He laughed a great deal, mostly at himself. Who's Who in America invites people to sum up their philosophy of life. Joe's entry concludes: "Do your best and don't take yourself too seriously."

He loved a good joke, a good softball game, a good tennis match, a good dry martini, a good barge trip through the canals of France. He loved FDR and Cardozo and Frankfurter and Ben Cohen and Ed Prichard and Phil Graham and Jimmy Wechsler and so many friends still alive and with us here this morning. He loved his children and grandchildren and, above all, he loved Olie, that enchanting blonde from St. Louis who, in one of his luckiest hours, agreed to marry him nearly sixty years ago. One has the picture of Olie through the years waiting sweet-

ly and patiently while Joe worked or argued late into the night, introducing a gentle skepticism at moments of undue fervor or tension and infusing Joe's life with a lovely tranquility.

The republic was lucky to have had him around for more than eighty years, and we are all lucky to have known him for even a portion of that time. Joe was high-spirited and great-hearted and tough-minded and brave and funny and wise. His strength, his optimism, his purity of leadership refreshed the liberal soul in bad times and held it to its highest standards in good. He was an unrepentant New Dealer to the end. He embodied the old, robust, realistic, exuberant American liberal tradition—liberalism without sentimentality, without self-pity, without illusion but with unquenchable hope for all humanity. That is the tradition that perennially recalls America to its best self and that will bring the America of the future ever closer to its professed ideals. Joe Rauh will go down in history as one of its heroes.

REMARKS OF ARTHUR MILLER

Joe Rauh can be summed up in five words—the truth was in him.

Joe was of course a deeply serious man but I have always associated him with laughter. The world—especially America—must have seemed a wonderfully ironical place to him. One afternoon during my trial in Federal Court for contempt of Congress the Prosecution managed for the third or fourth time to repeat in passing that I had misused a United States passport by travelling in Poland, then a country proscribed for Americans to enter without special authorization from God. Delighted with the opportunity to make monkeys out of the Justice Department, Joe sprang to his feet and told the judge, as he had two or three times before, that I had never set foot in Poland and that the charge was a deliberate fabrication.

The Judge thought—or seemed to think—about this for a full quarter of a minute and then said, "I think it falls under the four corners of the indictment," and continued the trial.

I turned to Joe beside me and whispered, "What does that mean?"

With a grin of overwhelming happiness he replied, "Not a damned thing."

He admired my work but I think what he really loved was a good musical. He was absolutely American. He did not particularly like sad endings. Life had enough misery without buying a ticket to more. Joe never wore his seriousness on his sleeve.

I know how futile a thought it is but I have never been able to accept that Joe Rauh was not appointed a justice of the Supreme Court. But of course he was too uncompromising, especially in his insistence upon the equality of all the races in this country, a cause to which he devoted so much of his life.

The poet Robert Burns wrote, "My father was an uncompromisingly honest and forthright man, and so we were poor." Joe's views and principles did not know seasons but kept blooming in the winter as well as in the enfolding warmth of summer. It is not a rhetorical excess to say that he lived the Law. Not just the laws that suited him but the Law as the embodiment of perhaps the most sublime ideals of civilized people in their age-old wrestling match with their baser instincts, their prejudices and greed and vindictiveness.

If Joe was a reader of literature he certainly kept it a secret from me; but perhaps the law and the achievement of justice had all the intellectual beauty and majesty he required to nourish his soul. But I think he understood in his bones the deep underlying themes of great literature and lived them out; the immortal longing of humankind for freedom, the noble and endlessly repeated confrontations with arbitrary power and above all the struggle with hypocrisy and fake moralizing. These kept him busy through his long life—busy and laughing.

His standards of political morality could be daunting. When Bork was turned down and all opposing him were congratulating themselves with great sighs of relief, Joe was unable to forget that Mr. Kennedy, to whom there were practically no liberal objections, had a record quite as reactionary and insensitive and he could not quite celebrate Bork's defeat when the larger battle was not finished.

Joe Rauh was unusual among those who defy prevailing opinion—he had no guilt feelings about doing it. His object as a citizen and a lawyer was not to achieve some noble remorse for a lost cause, but to win. I recall the first day of my trail for contempt of the UnAmerican Committee; the judge leaned forward and said that the Government was going to need about an hour to present its case, and would Joe like to take about the same amount of time for the defense?—he saw no reason not to finish the whole thing by lunch.

"I'm afraid not before lunch," Joe replied, "I'd estimate four to five days to present our case." Days! Agony struck the judge's eyes and the Prosecution table went white. Joe resumed his seat, straightened his polka dot bow tie, and looked as contented as Mark Twain's proverbial Christian with five aces.

If at any particular time he found himself in a suspect minority he never stopped believing that fate was on his side and that this was by its very nature a liberal country whose fundamental principles were liberal ones. I think he was sure that his basic political positions were in a direct line with the Constitution and the Bill of Rights, which had made Conservatives nervous from the very beginning and still do. But that was their problem, not his. He seemed to have no intellectual roots in Europe and its class struggles; if in fact his attitudes were the inheritance from English political philosophers like John Stuart Mill and Jeremy Bentham and Adam Smith, his conscious sources were almost purely Middle West American.

By any standards Joe Rauh had a wonderful life. He had his beloved Olie to collaborate with him, and their children, and perhaps the rarest of all gifts—a sublime reason to live in his lifelong battle for freedom, a battle which has enriched and enlightened us all, and nation he so loved.

REMARKS OF KATHARINE GRAHAM

As I think back over Joe's long, fruitful, dynamic life, a central fact emerges: Joe never changed from the time Phil and I first knew him and Olie over fifty years ago, to the moment of his death. He was in the prime of his life from beginning to end. He never slowed down in his passionate zeal to improve the world for individuals and for society.

To very few people is it given to be brave, wise, embattled and funny, to enjoy life and to contribute, to have the same mind and verve and memory, and then to be taken one evening in a minute. It makes the loss seem greater for us because it seemed as though Joe would go on being Joe forever.

Joe and Phil first came to know each other as Frankurter's progeny and first law clerks. Along with Prich and Butch Fisher, Joe and Phil formed a remarkable group of young turks who were brash, brilliant, irreverent, argumentative and cut-ups.

Frankfurther treated them as equals, and they responded in kind. Joe said, "Frankfurter denounced us, but no more than we denounced him. We screamed at him to such an extent one night that Mrs. Frankfurter referred to us as the four barbarians."

The barbarians didn't wait long to get involved in national affairs. Joe said, "We had the gall to tell Felix what he had to tell Roosevelt about how to stop Hitler. We weren't at all bashful in making our proposals on how to help the allies. We had chutzpah."

Later, working together in Lend-Lease, Joe and his compatriots strove relentlessly to prepare for war when the country didn't want to. They cut corners and red tape. They manipulated the bureaucracy. And they leaked to the press with splendid regularity. The joke was that Don Nelson, chairman of the War Production Board, read his mail in the morning paper.

Somewhat to my surprise Joe later reflected that leaking raised serious ethical problems, but said: "We would never have gotten as much done in the pre-war period, if we had not engaged in that tactic. In plain English, we thought we knew more about converting to war than the people who were running it." I think they were right.

The day after Pearl Harbor, Joe and Phil tried to enlist, but the recruiting officer laughed. They both had wives and bad eyes, and Joe had children. Later, of course, both made it into the service. Phil and Joe met-up in the Philippines, from which Phil wrote me in early December 1944:

"Lunch with Joe was as much fun as you can imagine. He came bursting in, in typical bearlike attitude and embraced me heartily and noisily and then proceeded to shout all the local gossip in as Rauhlike and as unsoldierly a manner as you can imagine. We would walk along and bump into a chicken colonel and Joe would say to him you tell general so-and-so that if he doesn't turn over such-and-such a job to us, he'll get his throat cut. And the chicken would smile understandingly and call Joe a disrespectful sonofabitch. You can see the old goon has not lost his touch."

After the war, Joe started his own law firm. But the law for Joe was just a way of leading the life he wanted to lead. Joe always lived his beliefs more than anyone in our whole generation, or anyone I know. And Olie lived them with him. The two formed a unique and indissoluble union, with Olie bringing gentleness and stability, and her own humor and loyalty to their partnership. They worked together always and on everything.

In the early '50s several organizations each took a night to picket the segregated National Theatre. ADA had Friday night. Olie and Joe used to go and picket. Joe said, "It was kind of a nice social thing, you'd work off your dinner." In fact, it was dangerous.

Joe's role in the 1957 civil rights act, the first to be passed, illustrates his extraordinary ability to be mentally flexible in the way he chose to reach his goals. There was a lot of feeling on the part of the civil rights forces that this bill was less than nothing. Virtually everything had been taken out except the right to vote.

The liberals had the forces to kill the bill. Joe started out on the fence. But he understood that you had to show you could pass something, even something small, to go forward and pass something big. In an all-night meeting, Joe persuaded Roy Wilkins and the whole group to accept the bill.

Phil called Joe at 6:00 a.m. to relay a message from Johnson, who had told Phil, "That goddam sonofabitch friend of yours saved my bill."

Unlike Phil Joe was not a Johnson supporter. He not only was against Johnson for the vice presidential nomination in 1960, but Joe thought he had a promise from Kennedy that it would be either Humphrey or a midwestern liberal. When Johnson got the nod, very real anger broke out on the floor of the convention among many people. Phil and Joe were photographed there, with Phil—a soulful expression of his face—trying to calm Joe down.

Many years later, Joe told me he wished he could get a message to Phil that Johnson turned out to be the best civil rights president the country ever had. I like to think the message has been delivered.

As the years went on, Joe never lost his delight in a good argument and telling it like it is. He never lost his boundless optimism. He never lost his faith in the ultimate victory of liberal values. He never gave up the fight.

Fifty years ago, early in World War II, Joe wrote to Phil and me from overseas. Referring to Phil and himself, Joe said, "We've both got the same itch to see what it's really like up front. I wonder if either of us is going to satisfy the itch before it's over."

In a valiant life of noble battles, glorious victories and only temporary defeats, Joe did.

REMARKS OF CARL S. RAUH

I had the good fortune to have had Joe Rauh for my father. I loved him dearly and am very grateful for all he did for me. For as long ago as I can remember, we were the greatest of friends and had such wonderful times together.

My dad loved his family so very much. He brought his beautiful qualities of warmth, humor, caring for others, commitment to justice and enjoyment for life into our family. He totally abored Olie, and no wife could have been more devoted to a husband than she was to him. My dad would make the following statement after going to a political party:

"Everybody was chasing after celebrities. The only celebrity I chased was Olie."

My dad always made Debbie and me feel so special, too, as I know he did with many of you. He wrote us a note recently, saying:

"It's great to have such a lovely family. The older one gets, the more that means. Thanks from the bottom of my heart."

My dad would always welcome my friends into his home, and my close friends became his good friends.

My father was a wonderful teacher of what matters in life. He taught by example; he taught by his actions. No one ever worked harder or persevered more than he did to accomplish what was right. He devoted his life to fight intolerance and injustice in America and he usually succeeded. He was the best lawyer I ever knew, and his career will be a model for many young people for years to come.

He gave all the strength he had to the cause of freedom in this country. Yet he seemed to have plenty of time and energy left over for family, friends and fun.

As boys growing up in the fifties, he would take Michael and me to the ballpark to watch the Senators and Redskins. We would play tennis and softball together. He was a terrific athlete, enjoyed sports immensely and played tennis until he was 75, often with me as his doubles partner.

There were always memorable summer vacations at Cape Cod or elsewhere. In 1952, the family took a six-week station wagon tour of the Western United States, visiting Yellowstone and Yosemite, the Grand Canyon, San Francisco, the California coast, and more. In 1954, the family took an eight-week tour of Europe; this time in a Volkswagen Bus. What fun we had being together, eating at wonderful restaurants and seeing the great sites of England, Scotland, France, Belgium, Holland, Germany and Italy. Dad's sister Louise was always included in these travels. There were many other fabulous family trips in the 1960s and 1970s. These were great times. In 1985, the family had a week-long celebration of Olie and Joe's 50th wedding anniversary at Mallow Castle in Ireland. In January 1991, the whole family gathered for almost a week at the Breakers in Palm Beach to celebrate Dad's 80th birthday. We were all there with him—Olie, Michael, Maggie, Debbie, Michael, Jr., Annette, Suzanne, Tim, Terry and me—and he had a big smile for each of us.

My dad really enjoyed living, which frequently included two martinis at lunch and a bourbon on the rocks before dinner. His good nature and perpetual smile made him such fun to be around. He had such a good time just sitting around and talking with his family, friends and acquaintances. For the past 10 years or more I had lunch almost every Saturday with him and my Mom at their house. We would have a sandwich and talk about the week's events in their lives and in mine. It was something we all looked forward to and enjoyed immensely.

I could talk on and on. I have such vivid, wonderful memories of my father. I will end with simply this. My dad's courage and accomplishments have left the world a much better place. He was a beautiful person, and I am very proud to be his son.

REMARKS OF JOSEPH L. RAUH, III

My grandfather was the greatest man I'll ever know. My grandfather loved people. He loved my grandmother, he loved his family and friends but most of all, he loved life.

Because the name Joseph L. Rauh, Jr. may be synonymous with civil rights, not surprisingly, every aspect of his life embraced the advancement of the cause.

My earliest and fondest memories were of the family "sip 'n dips" in the backyard where national and local leaders, unbeknownst to me, spoke about civil rights around the pool-side bar.

I also enjoyed personal time with my grandfather. We would talk in the car on the way to baseball and football games. And, of course, in the Washington tradition, these discussions centered around law, and were always engaging. We played softball up the street from his house and that was another opportunity to have drink, (or two) and a good time. He eagerly looked forward to my 21st birthday so that we could drink together. And that time with him affected me in ways that I'm still discovering now.

I remember being too young to recognize the people in the pictures on his office walls—like Humphrey, McGovern, and Stevenson. I would take documents from his desk to form an elaborate paper fort, watching and listening as he defended the civil liberties of the United States. Although I was playing with his work, I remember seeing his enormous hands feeding me the needed pencils and pens to erect the door to my monumental playhouse. He had a great sense of humor and was always willing to aid in the construction of a dream.

In the twenty nine years that I was blessed to have known my grandfather, he instilled in me values, commitments and dreams that will last me my lifetime. He taught me the values of helping others and about the commitments and sacrifices that one must make to achieve these goals. He taught me that life is short. Do it now, make it happen, believe in yourself and others will believe in you. He gave me ambition, love and an appreciation and respect for the world and its people. But the most important thing he taught me was how to dream. My grandfather, like so many others, had many dreams. His dreams encompassed the unity and brotherhood of mankind.

Always eager to listen with such great intensity, my grandfather was always there for me. He answered historical questions for history and law classes, giving me first hand accounts on major civil liberties acts, guiding me through my adolescent years. He genuinely cared about what people had to say and would go out of his way to see things from their point of view. He would let you know how he felt about a situation, but would never infringe upon your rights to an opinion. His mannerisms and demeanor were governed by the laws of equality and justice for all.

My grandfather has influenced the lives of everyone here. His willingness to educate, write and speak out has given us all a foundation on which to grow, live and love. He has taught us to be thankful that we live in a Democratic society and that we have a constitutional right to speak out for what we believe. He has planted seeds in the minds of people of my generation, knowing that civil liberties for all is a never ending, uphill battle. He has given us strength and a belief that where there is a will, through perseverance, unity, and education, we can change the world. Joseph L. Rauh, Jr. was living proof that one person can make a difference, and he did.

I will greatly miss my grandfather. My grandfather was the greatest man I'll ever know.

REMARKS OF B. MICHAEL RAUH

Rabbi, thank you, Terry and Carl, your thoughts are beautiful.

Suzanne and Michael, you certainly have inherited your Grandfather's gift for public speaking.

Kay, Arthur, Roger, Arthur, and Tom, for Olie, Carl, myself and our entire family, thank you for sharing your remembrances with us today.

Dad lovest you. That may not be the best of grammar, but those three words speak volumes about my view of the life of Paw Paw, his advocacy, his commitments, his dedication, his enthusiasm, and his priorities.

Dad—Dad was a family person. Long before an about-to-be former President used words like "kinder, gentler," "thousand points of light," and "family values," Dad was that caring person, he lit the candles that gave hope for so many, and he set real values for honesty in government service, hard work, civic leadership, fairness and equality to all persons regardless of economic strata, and he spent lifetime dedicated to improving the opportunities for his fellow man and woman, so that their place in their lifetime could reach their highest goals. He fought to give rights and liberties that others tried to take away.

Dad taught us that in order to accomplish all that had to be done in a lifetime you had to do at least two things at once. Carl and I benefited from that lesson. I have fond memories of the old Washington Senators ball games with Dad and his friends Phil Graham, Ed Pritchard, Jimmy Wechler, Wilson Wyatt and Jim Loeb. Dad enjoyed the

game, an evening with his sons, and discussions with his contemporaries of the day's major issues. I learned the love of a father, sports and current events, all at the same time.

He rooted for the Redskins with a passion. Remember, they followed him from Boston. Eight Sundays (and more in the good/playoff years) each Fall you could find him before the game at the Tailgate parties prepared by Maggie, with deserts by Suzanne, and then in the stands with his friends Jim Reynolds, Bob Nathan, Wayne Horvitz, John Anderson, and so many others, betting that first bourbon on a Redskin touchdown, and in the not-so-good years on a field goal, or a first down, or a completed pass and in the really bad years on even a play without a fumble. He loved those competitive sporting events, with friends and family. And he never left before the last play, even sitting through the famous Bear trouncing of 73–0.

He loved holidays and trips with his family, they were lifetime highlights and remembrances for three generations, from across the Western States, to the Caribbean, through Europe, the castle in Ireland, and most memorable of all, seventeen days on a Kenyan safari. A perfect holiday for him and for us, history, geography, adventure, fun and family. His favorites, I believe, were to Ireland with Michael, to Russia with Suzanne, and back to Africa with Terry.

He was equally dedicated to his parents and siblings. During his mother's lifetime he called or wrote her every Sunday. And after death he continued that practice with his Sister, until her passing last year.

Dad was always there in time of need, always with sage fatherly advice, always firm, but always fair.

Two of life's most important goals are to be a good parent and leave this earth a little better than you found it. Dad, you succeeded in both magnificently.

Lovest—lovest tells us of his deep commitment to human rights and civil liberties for everyone. The superlative is how he lived his life. Everything was done to perfection, or at the very least to the best of his ability, from his efforts on the Harvard basketball court to his appearances before the United States Supreme Court. I was thrilled to be present on several of those occasions, and on one before the high court, he proudly moved my admission, an event I will always treasure.

He learned his love for the underdog as center on the Harvard basketball team. He became committed to civil rights and liberties when a Black teammate was refused a hotel room. And he learned his competitiveness at Camp Kennebec and the Harvard Law School.

The quest for good and challenge of victory were his motivating forces. Preparation and perseverance were his trademark and cause for success.

You—you are what his life was all about—other people—most of whom he never knew.

At times like these it is often said that the decedent "played the hand that he was dealt." In Dad's case, he found he did not like the game, the play, the deal, the table, in some cases the players, and usually the level of the field. So he changed them all, to his undying credit and to our benefit. And he has left us a playing field, game, rules and deal more equal to all who must endure some birth disadvantage.

He took on all causes, regardless of degree of difficulty so long as there was social advancement at issue, well almost all.

Amongst my favorite stories is the phone call he received, probably forty years ago, from I believe Stockholm, and a voice that said, "Mr. Rauh, my name is Christine Jorgenson, and the State Department has invalidated my passport. I need your help." Dad, remembering a recent news story of a person undergoing a sex change operation quickly responded with his marvelous wit and usual good sense of humor, "Mr. Jorgenson or Mrs. Jorgenson, or whatever you are, I have enough clients that are nuts, I don't need one who doesn't have any."

Dad would have been overjoyed with this crowd and place today—not just because of its integration by elder and young, rich and poor, Christians and Jews, blacks and whites, but because this was the site of the D.C. Law School's first graduation; an accomplishment of which he was very proud.

St. Peter, look out, for I have a feeling that as we sit here today he and Clarence Mitchell sit at the head of a table above, with their allies and friends (all of whose photographs are on Dad's office wall), including Mr. A. Philip Randolph, Walter Reuther, Bobby Kennedy, Jock Yablonski, Adlai Stevenson, Arron Henry, Hubert Humphrey, Roy Wilkins, Paul Douglas, Phil Hart, Eleanor Roosevelt, and scores of others, organizing those Heavenly workers.

He strongly believed that whatever you do, there must be an element of enjoyment, it must be fun.

Amongst his highest values was the continual search for knowledge and truth, honesty and fairness, love and affection for you and his family. And above all his 57 year marriage to and partnership with Mom.

It was not by irony or coincidence, but rather by what in hindsight would have been likely, that his last phone call was to a family member, his daughter-in-law, to seek her advice on an issue of women's rights. An hour later he was gone, and a family was devastated.

The only thing that might have made him a little sad today would be that with this tremendous gathering of good friends, and marvelously talented podium, no one has taken a "pitch" for any of his favorite organizations, any issue or cause dear to his heart, or any liberal Democratic candidate. And certainly I will not—but allow me, for him, to suggest, no urge, that as you remember him today, tomorrow and for years to come, that you dedicate a little time, a small check, a modicum of energy, or however you choose, to a cause for the benefit of others, that makes you happy, and for which he would have been proud.

And as we conclude this service, and I must say goodbye, but always remembered; Dad being part of your family has been fun.

We will miss you.

I lovest you.

REMARKS OF THE HONORABLE HENRY F. GREENE, ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA, SEPTEMBER 8, 1992

Judge GREENE. Over the past weekend, after my wife and I had been out of the city for two weeks, I was distressed upon returning to learn of the death of an extraordinary distinguished member of the Bar, both of the District of Columbia and of the United States, Joseph L. Rauh, Jr.

Mr. Rauh died of a heart attack last Thursday evening at the age of 81. He lived as full and productive a life as any person with when I have ever had the honor of being acquainted during my life. He was a champion of racial integration, of the rights of minorities and labor unions, union reform, and the interests of citizens of the District of Columbia over many many years.

To meet Mr. Rauh personally was to meet a gentleman who was always optimistic, who always hoped for and expected the best from other human beings, who had a marvelous sense of humor and who believed passionately and fought courageously for the issues in which he was so involved. Joseph Rauh was one of my heroes.

In May 1979, Mr. Rauh lectured at the University of Minnesota Law School on Law Day. I had occasion to refer to his remarks once when I was addressing the Bar, and last night looked back on the speech he made. I think it reflects the standards to which we should hold our profession and how Mr. Rauh represented the very best in our profession. He thought—and I quote from him—that "the legal profession should be one that places public interest above private gain, that puts the use of legal tools for progress and equality above the defense of the status quo, that treats legal services for the have nots on a par with those for the haves, that utilizes law as an instrument for helping the powerless and not for protecting the powerful, and above all that makes the law a vehicle for righting social wrongs and not perpetuating then."

He alluded in his remarks to a statement by Mr. Justice Holmes, who said, "I always have thought that not place or power or popularity makes the success that one desires, but a trembling hope that one has come near to an ideal."

It is ironic, I thank that in quoting Mr. Justice Holmes, Mr. Rauh might have well written his own epitaph, for if there is anyone who in my life time has come nearest to the ideal of being what a lawyer in our society should be it is Joseph Rauh.

During his distinguished legal career, Mr. Rauh was more particular than most of his more financially productive colleagues of the Bar in terms of what he devoted his time and his enormous energy and his very substantial intellect to. As a lawyer, he took only those cases he believed in, and he suggested that no lawyer ever should do otherwise. He thought that our profession stands in a unique position, that it has a special duty to the people of this country, to the interests' of the public at large, and ultimately to the preservation of our Democratic system of government based on the law. He suspected, and I think accurately, that the basis of widespread public contempt for the legal profession is based on a widely held belief that lawyers are mercenaries, concerned only with making money and obtaining power, recklessly pleading their clients' cases without sight of the public good. And he observed—again, unfortunately, quite accurately—that the perception too often conforms to the reality.

In a wry but perceptive way, he said a lawyer should not do anything for a client that he would not do in a tennis match, at the bridge table or in any other walk of his own life. He should not do or say anything for a client he knows is wrong any more than he would do or say it on his own behalf. He thought that a lawyer should no more give an opinion which he could not believe to be correct than he would give such an opinion to his bank on his own behalf when seeking a personal loan. A lawyer, he stated, should no more knowingly miscall a legal opinion than a tennis player should deliberately miscall a line decision; a lawyer should no more assist a client in covering up misdeeds than a doubles player should allow his partner to cheat. In short, he asserted that the interests of a client—any client—are not sufficient to justify actions which a lawyer

would not take in other walks of life with a clear conscience. A conscientious lawyer does something because it is right, not only because the client wants him or her to do it. In essence, he did not feel that a lawyer should be a hired gun for any cause.

Mr. Rauh exemplified what he believed in by the actions he took. And, indeed, when we talk about a distinguished member of the Bar, if we mean by that a lawyer who over a long period of time acts as he professes to think lawyers should act, and does it with intellect and ability and energy and dedication and courage, it is fair to say that Joseph Rauh is the most distinguished lawyer that I have ever known.

Among his numerous accomplishments at the Bar, after he clerked for Mr. Justice Cardozo and Mr. Justice Frankfurter, was his representation of artists and government employees accused of being security risks during the red scares of the 1950's, his representation of the Brotherhood of the Sleeping Car Porters, and his founding of the Americans for Domestic Action with Eleanor Roosevelt, Walter Reuther and Reinhold Niebuhr.

In 1947, well before the Civil Rights movement became a national cause or, indeed, a popular cause, Mr. Rauh marched on picket lines outside the National Theatre to protest the exclusion of black persons from the audience, and over the years he became a leading figure in opposition to racial segregation in Washington. In the summer of 1964, he represented the Mississippi Freedom Democratic Party in a challenge to the seating of the all-white Mississippi Democratic Organization at the Democratic National Convention. And as counsel to the NAACP legal defense fund, he instituted a lawsuit in 1972 that during the next ten years brought about a series of federal ultimatums for dismantling racially segregated school systems throughout the southern and border states of the United States.

More recently, Mr. Rauh was eloquent in support of legislation requiring redress for Japanese Americans who had been interned during World War II. And during the relatively short period of his life I had the good fortune to be acquainted with him, I repeatedly was present on occasions in the District of Columbia when he was a forthright and articulate spokesman for the interests of its citizens.

Joseph Rauh stood out because, more than any man I have known, he spoke for things that were right at times that it took courage to do so; I believe that is among the highest tributes one can make to any member of our profession—or, indeed, to any citizen.

This court adjourns today in honor and memory of Joseph L. Rauh, Jr., and expresses on behalf of all of the judges of the Court its deepest condolences to his wife, Mrs. Olie W. Rauh, and his two sons, both themselves among the most distinguished members of our Bar, B. Michael Rauh and Carl S. Rauh.

Court stands adjourned.

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[From the Washington Post, Sept. 12, 1992]

JOE RAUH AND THE CIVIL RIGHTS PLANK OF 1948

(By Chalmers M. Roberts)

In the spring of 1948, when President Harry S. Truman looked like a sure loser in that fall's election, Joseph L. Rauh Jr. found the way to carry forward his civil rights campaign. And I'm happy to say I helped him do so by the simple act of reporting the news.

At the time I was covering local news for the Washington Star, and my wife and I were irked to be voteless residents of the District of Columbia. I discovered that District Democrats (Republicans, too) were going to select national convention delegates by passing out their six seats to insiders with nary an opportunity for anyone else to participate.

My stories in the Star—the rival Washington Post essentially ignored all this—caught Rauh's eye and then that of his associates in the newly formed Americans for Democratic Action. Rauh asked me about the so-called party rules—there were no federal or District laws or regulations whatever—and he complained to me about the problems in advancing his civil rights agenda. I told him to stop complaining and run for office.

He did—for both delegate to the '48 convention in Philadelphia and for the local Democratic Central Committee. The District's organization Democratic chairman was a soft-spoken lawyer, Melvin D. Hildreth (whose true passion was the circus), and it didn't take much pressure from Rauh to break into the hitherto exclusive party machine.

Rauh organized an ADA slate with a strong labor component, including Tilford Dudley, Betty Lindley and Katie Louchheim. The slate was aided by a couple of restraining orders by a helpful District Court judge, T. Alan Goldsborough.

In the end, to avoid a contest, Hildreth offered to give Rauh, his slate and their allies half the convention seats—or, more precisely—to double the six allotted seats to 12, each with a half vote. And so on June 28, 1948, Joe Rauh was elected a delegate as well as a central committee member, the latter a post he was to hold for 20 years.

Exactly 471 votes were cast that day in the presidential preferences part of the primary ballot—236 for Truman, and 235 (write-ins all) for all the others. The runner-up was Gen. Dwight D. Eisenhower with 181, and next was Justice William O. Douglas with 31. The vote was a virtual Truman vs. the others tie in six of the seven voting places, but Truman triumphed by carrying, 92 to 24, the seventh at 16th and U Streets NW.

So rusty was the idea of a local election that two days earlier a worker for Veterans for Eisenhower was arrested for passing out handbills at 14th and F. His case was dismissed after an hour in jail, and he went back to the corner.

Rauh was chiefly motivated by his civil rights crusade; he was mostly negative about Truman, and the national ADA was strongly for Ike. When Rauh got to Philadelphia he joined with the young mayor of Minneapolis, then making his first run for the Senate, Hubert H. Humphrey. Rauh was a major contributor to Humphrey's minority civil rights plank. It was adopted by the convention, leading to the southern walkout by then-Democratic Sen. Strom Thurmond of South Carolina, who went on to run for president as the Dixiecrat candidate. Henry Wallace's left wing of the party became the Progressive Party.

By the time Truman defeated Thomas E. Dewey, Joe Rauh was deep in party politics. But it was never politics as politics; it always was politics as a way to advance civil rights and political liberalism. The rest, as the saying goes, is history.

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[From the Washington Post, Sept. 15, 1992]

JOSEPH RAUH AND THE PUBLIC INTEREST

(By Colman McCarthy)

JOSEPH RAUH AND THE PUBLIC INTEREST

With George Bush on his hind legs barking at lawyers for wearing tasseled loafers and bringing "crazy lawsuits," it's worth a moment, in the cause of balance, to think about the life and ideals of Joseph L. Rauh, Jr. He died recently at 81, a Washington lawyer with a national caseload over a half-century involving civil rights and civil liberties. Few lawyers had as deep a passion for justice.

Rauh's taste was for representing clients whose claims were legally strong and morally sound, from antiwar Quakers and union auto workers to minorities kept on the margins because of race. He was among those lawyers—a few in the profession, for sure—who rejected the view that attorneys should be unconcerned about the ethics of those they represent. The public interest came before the private interest. Rauh was the opposite of the kind of hired-gun lawyer once instructed by J. P. Morgan, the buccaneer banker: "Your job is to help me do what I want to do."

In Washington, a city dense with one lawyer per 40 people, Rauh never stitched a loophole for a corporation, fronted for a bank or cut a corner for a trade association. No one bought him, in other words. Instead of billing his time out at $200 an hour, Rauh believed—with evidence on his side—that the monied clients could well get along without him but that the marginalized citizens could not.

Few were further on the political fringes than his own fellow District of Columbians. As general counsel for the Leadership Conference on Civil Rights, Rauh came early to the fight for D.C. home rule. In 1982, which was about halfway into the seven years Congress gave as a ratification period for states to approve the constitutional amendment to grant District citizens full voting rights, Rauh argued: "So why don't [we] have the right to vote? * * * Because we might send two black, liberal urban Democrats to the Senate. But that's an immoral argument, and everybody using it knows it is immoral to deny the franchise because of how it might be exercised."

Because of what Rauh called "the combination of racism, reaction and regionalism," the District's citizens have remained unrepresented.

Rauh had a briefcase full of other seemingly lost causes. In August 1980, he was the only major Democrat at the national convention to argue that the renomination of President Jimmy Carter was not worth it. Instead, Rauh, a founder of the liberal Americans for Democratic Action in the late 1940's, endorsed John B. Anderson, the Illinois independent. Rauh explained: "I am 70 years old and I have never voted for anyone but a Democrat in a presidential election. I'm a little tired of Democrats and Republicans. I think Anderson is simply the best candidate. I'd rather support a man who is moving to the left than a man who moves in circles."

Rauh, married for 57 years and the father of two lawyers, lived near a playground in Northwest Washington. For years, he and Alan Barth, a Washington Post editorial writer who died in 1979, presided over springtime Sunday afternoon softball games for neighborhood families. Women and girls were included at Rauh's insistence. Why else, he would ask, did we work so hard to get Title IX—the anti-sex-discrimination law—passed if the playground cannot be opened to all? Teammates of Rauh—male Cabinet secretaries, judges and politicians—often found themselves benched in favor of an 8-year-old girl who could peg it hard from the outfield.

My family and I played in those games for about 10 years. After the final out, it was

open house for lemonade, fruit and cookies at the Barths' across the street. Then the children, and a fair number of adults smart enough to listen, could learn something about current events, as well as charm and wit, from the stories and comments of Rauh and Barth. Had C-SPAN been around then, these back patio seminars, led by Rauh the activist and Barth the thinker, would have equaled any offering of public affairs programming.

Was Joe Rauh the last of the liberals, the breed said now to be nearing extinction? Hardly. Ask the clients and groups he served pro bono, or the powerless he stood with. They're firmly on the left, and as patient as Rauh always was in knowing that no liberal cause is lost as long as it is just. Few are not.

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[From the Washington Post, Sept. 28, 1992]

A LIBERAL DOSE OF MEMORIES: CELEBRATING JOSEPH RAUH, LAWYER, ACTIVIST AND "FUN GUY"

(By Roxanne Roberts)

Considering that it was Sunday during football season, Joseph Rauh was probably at a celestial tailgate party—sipping bourbon and flirting with Marilyn Monroe.

At least, that was the speculation at yesterday's memorial service in his honor. Rauh, the legendary Washington lawyer who died earlier this month at age 81, loved his family, the Redskins, Wild Turkey and two blondes—his wife of 57 years, Olie, and Monroe (but just from afar).

But most of all he loved the law and used it to fight for his beliefs. For more than 50 years, from FDR's New Deal to this year's presidential race, he supported Democratic causes and fought for groundbreaking civil rights legislation. "He was a liberal with a capital L—first, last and always," said former Senator Thomas Eagleton.

"Long before an about-to-be former president used words like 'kinder, gentler,' 'thousand points of light' and 'family values,' Dad was that caring person," Rauh's son Michael told the audience. "He lit the candle that gave hope for so many."

Yesterday, more than 700 relatives, friends admirers packed into the University of the District of Columbia's auditorium for one last thank-you. Young and old, obscure and famous—including retired Supreme Court Justice William Brennan, 1980 presidential candidate John Anderson, Eagleton, historian Arthur Schlesinger, Jr., Washington Post Co., Chairman Katharine Graham, playwright Arthur Miller and civil rights activist and professor Roger Wilkins—came to praise one of the country's truest liberals.

"He represents the great continuity between the New Deal and today," said Schlesinger, who called Rauh one of his generation's leading guardians of the Constitution. "I doubt that any lawyer in American history has had more impact on the Court and on the Congress in the vindication of individual freedoms and in the defense of the Bill of Rights."

"It's not an exaggeration to say that Joe Rauh had a penetrating effect on every important struggle for freedom in his lifetime," said Del. Eleanor Holmes Norton (D–D.C.).

If Joe Rauh was even half as good as he is remembered, he still puts mere mortals to shame—at least liberal Democratic mortals.

An ardent New Dealer, Rauh helped found Americans for Democratic Action, served on the board of the NAACP, wrote the civil rights plank for the 1948 Democratic convention, fought for D.C. home rule, battled Joe McCarthy and pushed for equal rights and liberties for everybody. He used to say he learned about being the underdog as a member of Harvard's losing basketball team and never believed you had to play the hand life dealt.

"In Dad's case, he found he did not like the game, the deal, the table, in some cases the players, and usually the level of the field," said Michael Rauh. "So he changed them all."

After graduating from Harvard Law School in the 1930s, Rauh clerked for Supreme Court Justices Benjamin Cardozo and Felix Frankfurter, then founded his own law firm after serving in World War II.

"The law for Joe was just a way of leading the life he wanted to lead," Graham told the audience. "Joe always lived his beliefs more than anyone in our whole generation or anyone I ever knew."

Rauh, said Wilkins, "lived up to every hope I ever had for good white people."

But that's not to say Rauh was one of those painfully earnest liberal types. "I don't want to make it sound too heavy," said Sen. Paul Simon (D–Ill.), "because he was also a fun guy. He was very serious about his battles, but he didn't take himself that seriously."

So there were his weekly softball games, a crush on Marilyn Monroe—and laughter. More than once, family members remember how he enjoyed a good Redskin game and a good bourbon—often at the same time.

In a winning season, Michael Rauh explained, his father would down his first bourbon "on a Redskins touchdown. In the not-so-good years, on a field goal. Or a first down. Or on a completed pass. And in the really bad years, on a play without a fumble."

The photo on the front of yesterday's program showed a smiling Rauh surrounded by 50 years of "liberal mementos" and his quotation inside: "Others made all the money but we had all the fun."

"By any standards," said Arthur Miller, "Joe Rauh had a wonderful life."

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[From the Washington Post, Sept. 29, 1992]

HAIL THE LAUGHING REFORMER

(By Mary McGrory)

The last time I saw Joe Rauh in public he was, despite his age and infirmities, standing on the unforgiving marble floor of the U.S. Senate behind a red velvet rope. He was doing what he did best, lobbying for a cause, this time collaring senators to vote against the confirmation of Clarence Thomas. "I think we can stop him," he told me. "When they see . . ."

That was Joe. He never excused himself from any exertion on behalf of right. He never tired. And he believed all his long life (he died at 81 on Sept. 3) that if people were shown the facts and the reason, they would of course, choose to do the rational and progressive thing.

Sixty years in public life, with powerful evidence to the contrary, did not change his mind. He was highhearted to the end.

Almost everyone in Washington has memories of Joseph L. Rauh Jr. He was a synonym for courage and good cheer. He was a big, smiling, rugged, athletic type who loved life, the law, martinis, blondes—especially Olie, his wife of 57 years, and, like a teenager, Marilyn Monroe, the onetime wife of one of his most distinguished clients, playwright Arthur Miller. Rauh shattered the conservatives' stereotype of a liberal, a word that the Republicans have transformed into an epithet, although never for him.

On Sunday, Arthur Miller spoke at a memorial service for Rauh at the University of the District of Columbia, one of the innumerable institutions and causes that engaged Rauh's strenuous attentions.

"He lived the law," said Miller, "the law as the embodiment of the most sublime ideals of civilized people in their age-old wrestling match with their baser instincts, their prejudices and greed and vindictiveness."

Rauh successfully defended Miller against charges of contempt of Congress, during the McCarthy era, when Rauh was the boldest critic of the great defamer. He didn't scare easily, and perhaps more importantly, given the high concentration of posturers and stuffed shirts in town, he made light of his almost reflexive valor. He was a laughing reformer.

Katharine Graham, chairman of The Washington Post Co., told of Rauh's picketing of a local theater that excluded blacks in the '50s. She said it was dangerous; he said it was "a good way to walk off your dinner."

Another old friend, historian Arthur M. Schlesinger Jr., called him "the soul of the great contemporary guardian of the Constitution," and told of the conversion from college playboy to crusader. As a member of the Harvard basketball team, he encountered racism firsthand when a black team member was turned away at a New York hotel. Rauh led an exodus from the hotel—and spent the rest of his life in the vanguard of civil rights advocates and agitators.

Rauh was a passionate believer in the endless uses of democracy. All is possible was his unspoken motto. After the Senate Judiciary Committee rejected Richard Nixon's first Supreme Court choice, Clement F. Haynsworth Jr., they were extremely nervous about turning down his second, G. Harrold Carswell, and making it two in a row. But goaded by Joe—apostle of "why not?"—they sent him packing, too.

He also was involved in fighting union crime, the war in Vietnam, civil liberties abuses, and worked for District home rule. But tearful children and grandchildren testified that, miraculously, he always had time for them.

He never held back. In 1960, at the Democratic convention, much consternation on the left attended John Kennedy's choice of Lyndon Johnson. Only Joe grabbed his delegation's mike and roared into it—"Jack, Jack, don't do it." But in the White House, Johnson proved as fierce a civil rights advocate as himself; they worked hand in glove on the great rights bills of the '60s.

In 1982, he found another unexpected ally in the fight for equality, when voting rights renewal was up for a vote and Ronald Reagan outdid himself in circumvention: Reagan came up with a novel requirement, to prove "intent." For there to be no federal offense, the registrar had only to say he had no intention of depriving minorities as he moved polling places out of their reach.

Senate Republican leader Robert J. Dole (Kan.), without saying much about it, made common cause with his generation's most vociferous liberal to avert the travesty. Together, they worked out a bill that was beyond Rauh's wildest dreams. Dole drove it through the Senate. Rauh called Dole "superb," and said he could think of voting for him for president.

It was one more proof of what his whole life had proved: that to be liberal as the dictionary says, is to be "open to new ideas."

[From the St. Louis Post-Dispatch, Sept. 11, 1992]

LABOR'S RAUH GAVE MOVEMENT WISE COUNSEL

(By Philip Dine)

Just last month, at one of his Sunday afternoon poolside gatherings that had become a Washington institution, Joe Rauh was eagerly anticipating the results of the presidential election, telling his guests that he would relish a post-election chance to revisit the discussion.

Sadly, that is no longer possible. Rauh died a week ago at the age of 81 from a heart attack in his home in northwest Washington.

The wire obit called him "a prominent lawyer," an understatement for a man who probably was the most important civil rights and labor attorney of the past half-century.

As counsel to the United Auto Workers from the 1940s to the 1980s, Rauh exerted a key influence on Walter Reuther, helping promote an open, vibrant union. He also represented reform movements in the miners, steelworkers and maritime unions.

Rauh's hand was visible on the nation's civil rights bills of the 1960s, legislation he had persaged with his work at the 1948 Democratic convention. He was the trusted counsel to a wide array of civil rights activists and groups across the country for much of the post-World War II era.

But Rauh was more than a lofty historical figure to those who knew him, such as Chip Yablonski, a Washington lawyer and the son of Jock Yablonski. The elder Yablonski was murdered on New Year's Eve 1969 for his efforts to reform the United Mine Workers of America.

Chip Yablonski later served as general counsel for the UMWA and, for the last decade, has represented the National Football League Players Association.

"He was a colleague, he was a friend, he was a mentor. He was a substitute father," Chip Yablonski said this week.

"What do you say about somebody who puts his life on the line? The time my folks were murdered, Joe helped me to pick up the pieces and put my life together and dedicate myself to fighting the battle to see the murderers were caught and prosecuted—and to see that my father's dream for democracy in the UMWA was realized.

"He was my father's attorney and after my dad's death he stood up in front of those miners at a time when no one knew who had perpetrated the murders, and a lot of my father's supporters were quite leery of doing anything. Joe announced to that group. 'The fight will go on, if that's what you guys want to do.' And, of course, they did."

Rauh's labor career shifted over the years. Yablonski noted: "He was the pre-eminent spokesman for labor before the Supreme Court of the '50s and '60s, until he decided to do union democracy work, which I think is a red badge of courage," because Rauh was treated unkindly by certain entrenched union leaders.

Rauh's Sunday poolside sessions were replete with Missourians, reflecting Rauh's St. Louis-area ties. His wife, Olie (Westheimer) Rauh, was raised in St. Louis and the couple was married here in the Park Plaza Hotel.

One frequent guest was David Wigdor, a native of Charleston in Missouri's Bootheel and the custodian of Rauh's papers at the Library of Congress. "His life covered a lot of things and people have been using the papers for almost every aspect of what he did: the union reform movement, development of liberalism, civil liberties work," Wigdor said.

Victor Reuther, who grew up in Southern Illinois, co-founded the UAW 55 years ago. At 80, he is just a year younger than Rauh, and for many years the two men lived near one another in northwest Washington.

Rauh and Reuther were close friends and allies since the late 1940s.

"In my personal, family and organizational involvements," said Reuther, "there were numerous crises, and Joe was always there with wise counsel, a steady hand and wise compassion. When the hired thugs of corporate America sought to snuff out my life and that of my brother, Joe bore down on the Justice Department.

"Since the inception of the modern labor movement, Joe was on the side of the workers, and I mean rank-and-file workers and union members. Joe's leadership in civil rights and in strengthening the quality of our judicial system is legendary. American democracy has been enriched by his life."

Tom Eagleton—former senator from Missouri and now a lawyer in St. Louis—and his wife traveled regularly with the Rauhs. In remarks Eagleton plans to deliver at a eulogy in Washington on Sept. 27, he writes:

"In my life I have known some wonderful, refreshing, inspiring people. But I have known perhaps as few as three individuals who on all occasions put conscience ahead of all other considerations: Sen. Mike Mansfield, Sen. Phil Hart and Joe Rauh.

"In this time in which public decision-making is frozen in the end-justified-the-means mentality, men of conscience are all the more needed, all the more precious. We have now lost the best that God can fashion. . . . We know how fortunate we all were that the courage and conscience of Joe Rauh came America's way."

Mr. WOFFORD. Mr. President, on September 3, 1992, the country lost a great citizen and the legal profession lost an unparalleled advocate for justice. Joseph L. Rauh, Jr., left behind over a half century of constitutional vigilance and an inexhaustible pursuit of equality.

A passionate believer in the Bill of Rights and the freedoms it embodies for all citizens, Joe Rauh represented a continuum of democratic struggle from the New Deal to the present. In 1947, after graduating first in his class at Harvard Law School, clerking for Justices Benjamin N. Cardozo and Felix Frankfurter, and service in the army during World War II, Joe Rauh along with Eleanor Roosevelt and other notable liberals founded the Americans for Democratic Action. In that same year before the civil rights movement came to the nation's consciousness, he marched on picket lines outside National Theater in protest of its exclusion of African-Americans.

At the 1948 Democratic Convention Joe Rauh played a leading role in drafting the party's first civil rights plank which became the foundation for future federal civil rights legislation. In 1964 he continued his convention action by representing the Mississippi Freedom Democratic Party in its challenge to the all-white Mississippi delegation to the Democratic Convention.

Through the 1960's he was a major force in the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. He was general counsel for the Leadership Conference on Civil Rights and served on the board of the NAACP. Joe Rauh was also a prominent civil liberties lawyer representing playwrights Lillian Hellman and Arthur Miller before the House Committee on Un-American Activities in the 1950's.

Joe Rauh was in his element organizing opposition to President Nixon's Supreme Court nominees G. Harold Carswell and Clement F. Haynsworth, Jr., President Reagan's nomination of Robert H. Bork, and in the end President Bush's nomination of Clarence Thomas. It was Joe Rauh's profound belief that protection of the Court was paramount to the pursuit of justice.

With his zest for life and unbounded conviction that all was possible, Joe Rauh left an indelible mark on all of us who worked with him. Thirty-five years ago he asked me to join his three-person law firm. I went a different course but like to think that wherever I worked I was a member of the larger firm without walls in which he was the senior partner. It is his extraordinary legacy that I memorialize today. But it is the man that I will miss.

## IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,064,620,655,521.66, as of the close of business on Wednesday, September 30.

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 fiscal year which ended on September 30, 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 $15,824.33—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?

## THIS MAN OF MANY FACETS—SENATOR ALAN CRANSTON

Mr. PRYOR. Mr. President, the Senate will lose one of its giants with the

retirement of Senator ALAN CRANSTON of California at the end of this Congress.

This man of many facets—athlete, artist, writer, reporter, businessman, lobbyist, and public servant—came to the Senate in 1969.

ALAN CRANSTON's hand has been in the making of a number of the most important bills to become law in the past 20 years. A student of international law, ALAN CRANSTON has been a key player in almost all of this Nation's foreign policy initiatives. On the domestic front, ALAN CRANSTON is recognized as the undisputed authority on housing in the Congress. The Cranston-Gonzalez National Affordable Housing Act is a testament to his expertise and dedication to meeting the housing needs of our population.

Our Nation's veterans have looked to ALAN CRANSTON for leadership in the Senate on issues of compensation and health care. He has been an effective advocate for our men and women in uniform.

Mr. President, if there is any single trait that I can cite about ALAN CRANSTON, it would be his compassion. Whether the issue was a Bill of Rights for the disabled, or protecting abortion rights, or prevention of crime and drug abuse, wildlife protection, or immigration reform, ALAN CRANSTON has always sought solutions that were kind and compassionate and which addressed the real needs of hardworking people.

We will miss ALAN CRANSTON. He has certainly earned a long and fulfilling retirement. I know I join a State full of grateful Californians in wishing him all the best.

## THE LEGACY OF SENATOR BROCK ADAMS

Mr. PRYOR. Mr. President, Senator BROCK ADAMS will leave this body at the end of the 102d Congress. He will leave behind a legacy of constant and dedicated service to the people of his native Washington State that will be hard to match.

BROCK ADAMS came to Washington in 1965. When Congress passed the Budget Act of 1974, the House of Representatives looked to BROCK ADAMS as its first chairman of the Budget Committee.

When Jimmy Carter was assembling his Cabinet, he looked to BROCK ADAMS to be his Secretary of Transportation.

BROCK ADAMS has always been true to his convictions. Not worrying about whether he would win a popularity contest for his stand, he nevertheless has always spoken his mind.

Among his many legislative accomplishments are his bill to strengthen truck safety laws and a bill to improve medical testing standards.

Last spring, I had the pleasure of working with Senator ADAMS on the Defense/Economic Transition Task Force. He was an active Member of that group of Senators and made a large contribution to the eventual recommendations that we made to the full Senate.

Mr. President, it has been a distinct pleasure to serve with BROCK ADAMS in this great body and I wish him all the best in his future endeavors.

## THE RETIREMENT OF CONGRESSMAN FRANK ANNUNZIO

Mr. DIXON. Mr. President, I would like to join my colleagues on both sides of the aisle in honoring the distinguished gentleman from Illinois, FRANK ANNUNZIO and congratulate him on his forthcoming retirement. After 28 years of exemplary public service, FRANK is entitled to sit back, relax and enjoy an occasional Chicago Cubs game.

Many men and women come to this great legislative body and, due to the allure of national policy or dreams of higher office, tend to lose sight of their constituents. Not FRANK ANNUNZIO. FRANK never lost sight of his roots and the people who elected him to office 14 times. He was a never-ending warrior on behalf of the little guy, and always had a special place in his heart for the elderly, the infirm, and working men and women everywhere.

On his many trips home, he could almost always be found talking to local officials or chatting with his constituents. He was also a regular at church services, retirement homes, union meetings, and party caucuses. In short, FRANK could be found with an available ear almost everywhere there were concerned citizens in Chicago and Illinois. And those citizens knew that their Congressman—FRANK ANNUNZIO—would go to great lengths to represent their views in Washington, and would never roll over to special interest groups or high-powered lobbyists.

In addition to his diligent representation and constituent service, FRANK was also very successful on the legislative front. In his 15 years as chairman of the Subcommittee on Consumer Affairs and Coinage, and his 4 years as chairman of the Subcommittee on Financial Institutions, he was responsible for such monumental bills as the Truth in Lending Act, the Electronic Funds Transfer Act, the Financial Institutions Reform, Recovery and Enforcement Act, and the FDIC Improvement Act. All of these laws made banking either safer or easier to understand for FRANK'S number one constituent—the common man.

As a former history teacher at Chicago's Harper High School, union official with the United Steelworkers of America, and small businessman, FRANK brought a wealth of knowledge and experience with him to Congress. He is leaving behind far more—a legacy of fairness and doing the right thing with an ever-present eye on the ordinary citizen. Congress is losing a great leader, but Illinois is fortunate to have one of its great citizens returning full time. I was honored to serve as his colleague and I wish him and Angie the best of luck in retirement.

## ON THE PAYMENT-IN-LIEU-OF-TAXES PROGRAM

Mr. HATFIELD. I know my good colleague from the great State of West Virginia is aware of an issue that has arisen with county governments over the payment-in-lieu-of-taxes [PILT] program, a program funded through the Senate Appropriations Subcommittee on Interior. To put it simply, the PILT Program enacted in 1976, which compensates counties for the presence of Federal tax exempt lands in their jurisdictions, has not received an increase in the authorization level in 16 years. Today, the value of the program is less than half of when it was originally enacted.

County governments provide vital search and rescue, law enforcement, fire and emergency services, and road maintenance and construction to national parks, national forests and wildlife refuges. Though the costs of providing these services has risen, the PILT payments which assist the counties in providing these services have remained static. We are fond of saying that the Nation's public lands belong to all of us. We should also recognize the responsibility of the Federal Government to financially assist the local units of government expected to provide services to these areas.

Today, PILT payments are distributed to 1,789 counties in 49 States. Contrary to a perception by some, PILT is not simply a western program.

Mr. BYRD. I understand that, Senator HATFIELD. PILT payments are critical to the local budgets of counties located within or adjacent to national parks or forests in the east, and throughout the country.

Mr. HATFIELD. That is an excellent point. Other States whose counties receive at least $1 million through the PILT Program are Arkansas, Florida, Michigan, North Carolina, Texas, and Virginia. My own State of Oregon receives about $2.9 million per year under the PILT Program.

In order to adjust these current PILT levels for inflation, however, legislation is necessary. Senate bill 140, currently before the Congress, attempts to make an inflationary adjustment for the PILT Program. The bill received broad bipartisan support in the Senate, as indicated by the cosponsorship of 64 Senators.

Mr. BYRD. I understand the popular support for S. 140, but am concerned about how an increased authorization will impact many of the other critical

programs contained in the Department of Interior appropriations bill. The Federal budget outlook for next year is less than optimistic at this time and thus the increase in the PILT Program called for under S. 140 is simply unworkable in today's fiscally limited climate.

Next year the rules of the budget process will allow us to review domestic versus defense programs and to assess our spending priorities. I will be glad to work with the ranking member at that time to consider a solution that seeks to address the concerns raised by the Nation's counties while also being fiscally responsible and sensitive to the constraints on our Federal budget and the Interior appropriations bill. We are unable at this time to fund many existing authorizations, let alone providing for the significant increases contemplated in S. 140, as well as other legislation.

Mr. HATFIELD. I appreciate the Senator's expression of support for finding an equitable solution in the next Congress, and I look forward to working closely with him on the PILT issue next year.

## IN MEMORY OF MORTIMER WRIGHT

Mr. DODD. Mr. President, I rise today to salute Mortimer Dickinson Wright who passed away on September 26, 1992 at the age of 72. Throughout his life, Mortimer's accomplishments were illustrative of his love for his community and affection for democracy. Those that had the opportunity to know and work with him remember him for his integrity, strength of character, and understanding.

Mortimer has left an indelible mark on the Groton community. Beginning in 1968 he served as the chairman of the Groton Democratic Town Committee and was chairman emeritus of the town committee. In 1971, he was elected as a State Representative from the former 66th Connecticut Assembly District. Quite an impressive victory considering that he was the first Democrat elected since the Civil War.

As an advocate for the environment, Mortimer has achieved a number of successes. He provided pioneer work and support for the preservation of the 200-acre Haley Farm in Groton as open space. He was a leader in the successful citizens' movement to prevent the rezoning of the Haley Farm to support intensive multifamily residential development and was a leader of the subsequent drive to designate the land as a State park. He is also responsible for the preservation of, and public access to, the Branford House Mansion at Avery Point.

More recently, in recognition of his many contributions to environmental quality and planning, the Groton Town Council dedicated a 76-acre parcel in the Eccleston Brook watershed area as the Mortimer D. Wright Nature Reserve.

In business, Mortimer was equally successful. In 1947 he founded an insurance and real estate company called The Wright Agency that still thrives today in Mystic.

In 1986 Mortimer was diagnosed to have Kugelber-Welander syndrome and in recent years was confined to a wheelchair. During this time he remained active in the community through his wife, Eva, and two daughters, Elissa and Hansina. To them I would like to extend my sincere condolences for their loss.

It is often difficult to capture in words the energy and enthusiasm of a man like Mortimer Wright. His career was driven not by personal gain but the desire to make this world a better place for this generation and the next. Today, Groton and the State of Connecticut are a better place as a result of his dedication and commitment.

## IN HONOR OF STUART HAINES

Mr. SEYMOUR. Mr. President, it is always a pleasure to come before my distinguished colleagues in the Senate to honor my fellow Californians who have demonstrated a selfless commitment to the public good.

In this regard, I want to bring your attention to Mr. Stuart Haines, president and chairman of Textured Coatings of America [TCA] of Los Angeles, CA. Since 1984, Mr. Haines and his company have continued to play a leading role in the effort to combat graffiti vandalism.

Like many of our cities, Los Angeles is afflicted with its share of unsightly graffiti and property damage. The vandals who practice their craft on buildings, walls, bridges, signs, and other private and public property, do so with little thought or respect for their community. Their illegal actions, much of it sponsored by violent criminal gangs, have resulted in reduced property values and weakened community pride. Indeed, they are ominous symbols of neighborhoods under siege.

However, as the manufacturer of Tex-Cote Graffiti-Card, a graffiti repellant, TCA has enabled the citizens of Los Angeles to fight back.

In 1984, TCA was called on by the city of Los Angeles to apply its Tex-Cote Graffiti-Card to protect the Olympic murals. Donating its product and manpower, this marked the beginning of TCA's efforts to rid Los Angeles of the graffiti epidemic. In 1985, with the assistance of reformed gang members, TCA was recruited to protect another Los Angeles landmark, the Hollywood sign.

For his leadership in the war on graffiti, Stuart Haines was named by Mayor Bradley to chair the Mayor's Committee for Graffiti Removal and Prevention in 1986. The committee, in coordination with the Southern California Paint and Coatings Association [SCPCA], established the first paint bank in Los Angeles, providing over 65,000 gallons of free paint to concerned citizens.

The State of California and the Los Angeles City Council aided the committee's mission when they imposed stiff penalties for graffiti vandalism and adopted a new "no graffiti" sign for display in California neighborhoods and communities. Sure enough, this new sign was designed by Mr. Haines and his committee.

Over the past few years, the committee has worked with the SCPCA, TCA and thousands of concerned volunteers to paint out specific neighborhoods and streets in the Los Angeles area. For example, in 1988, they painted out Sunset and Hollywood Boulevards. In 1991, coordinating their efforts with the San Fernando West Valley Police Department, the dedicated group painted out 240 miles of defaced property.

It may interest my colleagues to know that the committee has scheduled another paint out for the near future. And, I am pleased to report that TCA intends to continue its tradition of generosity. The company plans to donate the equipment and manpower necessary to maintain the new graffiti-free zone for 1 year.

Mr. President, TCA is now celebrating its 32d anniversary. With this in mind, it is my pleasure to congratulate the TCA organization, as well as commend Mr. Haines for the years of hard work and commitment to renewing the city of Angels. Indeed, the citizens of Los Angeles have set the standard for graffiti removal and prevention. "Take back our streets" is a phrase I use often to describe empowerment efforts by community leaders. In this case, Stuart Haines' empowerment efforts have helped Angelenos paint back their community.

Keep up the good work.

## IN TRIBUTE TO GEORGE F. CUDWORTH

Mr. CHAFEE. Mr. President, I rise today to pay tribute to Mr. George F. Cudworth of Newport, RI. Mr. Cudworth is this years's recipient of the Veteran of the Year Award presented by the Benevolent and Protective Order of Elks, Newport Lodge 104.

The Newport Elks have been active since 1888. Their organization has a distinguished record of involvement in numerous charitable activities that have benefited veterans, children, the handicapped, and the sick and aged. Each year, the lodge presents its Veteran of the Year Award to a local veteran, in recognition of that person's outstanding service to the country and fellow citizens.

George Cudworth's long and distinguished Naval career spanned over 20

years and included duty in many distant lands. After joining the Navy in 1945, Petty Officer Cudworth served aboard seven ships and six shore activities, including duty in Saigon and Danang, Vietnam.

Mr. Cudworth's service was outstanding, as evidenced by the many decorations he received: The World War II Victory Medal, American Theater Medal, United Nations Service Medal, Good Conduct Medal with four Bronze Stars, National Defense Service Medal with one Bronze Star, Korean Presidential Unit Citation, Korean Service Medal, Vietnam Campaign Medal, Vietnam Service Medal, and the Navy Expeditionary Medal.

Since his retirement from the Navy, Mr. Cudworth has continued to serve others through his activity in numerous civic organizations. He is an active lifetime member of the Veterans of Foreign Wars, Post 4487, Middletown, and the Fleet Reserve Association, Branch 19, Newport. He served as exalted ruler of the Newport Elks from 1980–81 and past district deputy of R.I. East from 1990–91. He is presently the chairperson of the Elks indoctrination committee and is a member of the Elks National Foundation.

Through his distinguished service to country and community, George Cudworth has provided an outstanding example for others, and I applaud the Newport Lodge of Elks for selecting him as Veteran of the Year. I ask my colleagues in the U.S. Senate to join me in extending to him our heartiest congratulations and best wishes for the future.

## A NEW VISION FOR COMSAT

Mr. INOUYE. Mr. President, on February 21, 1992, Bruce L. Crockett became the new chief executive officer of COMSAT Corp., succeeding Irving Goldstein, who was elected director general of INTELSAT. Let me take a few moments to introduce my colleagues to Mr. Crockett and his vision for COMSAT and the role it will play in the future of global telecommunications.

Mr. Crockett joined COMSAT in 1980 and has served in a number of key positions, most recently as president and chief operating officer. From February 1987 to April 1991, he served as president of COMSAT World Systems Division, which has since grown to become COMSAT World Systems and COMSAT Mobile Communications. As head of these two major business units, he directed the corporation's role in the International Telecommunications Satellite Organization [INTELSAT] and its counterpart for mobile communications, the London-based INMARSAT consortium. From June 1990 to June 1991, he served as chairman of INTELSAT's board of governors.

In addition to his COMSAT responsibilities, Mr. Crockett also serves as a member of the Presidentially appointed National Security Telecommunications Advisory Committee as well as NASA's Commercial Program Advisory Committee.

Mr. Crockett is the first person with an MBA to serve as CEO of COMSAT. His business acumen, combined with his strong leadership ability and compelling vision will serve him well as he steers the company toward an exciting future, one of solid growth and increasing competition.

Mr. Crockett outlined his vision for COMSAT's success in remarks directed at the corporation's recently held annual shareholders meeting. I ask unanimous consent to insert those remarks into the RECORD.

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

REMARKS OF BRUCE L. CROCKETT, PRESIDENT AND CHIEF EXECUTIVE OFFICER, 1992 COMSAT SHAREHOLDERS MEETING, MAY 16, 1992

Competition in its current form has been something new for us. We've had to learn to make competition be an ally. We've learned that you can't fight the irresistible force of the marketplace; and, quite frankly, we did resist it for a while. So it took us some time to get our act together. We also, in the process, learned to focus on our customers, providing quality service at the best price possible. In fact, saying we have a focus on customers is really an understatement. It's more a fixation! Moreover, in the process of learning to respond to the competitive marketplace and our customers' requirements, we've had to change: Change our culture and how we look at ourselves. And we've had to get others to change how they look at us. I'd like to go into a little more detail on what I like to call the three C's: Competition, customers and culture.

Number one, Competition. We've always had a lot of competition in the form of fiber optic cables, but we've also been blessed because we've had a dominant position in international satellite communications. On both fronts, the ante is going up. With respect to cables, the proliferation of fiber optic cables is increasing at a seemingly exponential rate. I'm sure you saw in this week's newspaper that Nynex is now considering a billion dollar cable connecting Southeast Asia, Japan and the United Kingdom. This is just another in a whole series of attempts by major carriers to blanket the earth with cables. On the satellite side, changes are coming at an equally rapid pace. The policy that has come out of the Government says that, by 1997, international communications from a satellite perspective essentially will be deregulated, and there will be total interconnection with the switched voice network. That means totally unfettered competition for us. But, I don't think it's really a problem. I view it somewhat analogously to what happened when AT&T was broken up. Rates came down, the traffic responded because of the price elasticity of the marketplace and the applications proliferated; and I expect to see the same thing happen in terms of international communications.

In this process of the globalization of markets and new competition and what COMSAT will face, you really don't have to worry very much, for we still have many strengths. The global connectivity of our systems really can't be matched by anybody for a long time to come. Our global reach exceeds 180 countries, and satellites are still the quickest and most cost-effective way to jump-start the creation of communications systems for very large portions of the world, developing and otherwise. That means there are plenty of opportunities for us, and we're really taking advantage of them. For example, our establishing COMSAT International Ventures was just a recognition that the foreign end of the INTELSAT system link, or the vertical integration of services to end customers, offers a very attractive business opportunity. We're pursing that through private line services throughout Latin America and other parts of the world. And those markets will continue to proliferate as privatization and deregulation become even more pervasive than they are already.

Worldwide video is a tremendously growing market. I know you're all in as much awe as I am of the events that took place this week concerning the recovery of the INTELSAT VI, F–3. Next Wednesday, the 20th, we have another launch scheduled, the INTELSAT K satellite, which will be our first in the INTELSAT constellation dedicated to a specialized service, i.e., video. Since this new satellite will permit us to go into very-small-aperture earth stations, we will begin to pepper the rest of the world with the proliferation of television channels we have here in this country. There is tremendous pent-up demand for this, and the market is going to grow very rapidly.

We've demonstrated over the last several years, without too much fanfare, that we in fact can deal with competition. COMSAT Mobile Communications provides a good example. We compete against other signatories, we compete against cellular, we compete against other coast earth station operators, and, notwithstanding all of that competition over the last decade, we're still the largest provider of mobile communications services in the world. We also have more customers than any other providers of such services, and have that business growing at close to 30% a year. We are building a new earth station in the country of Turkey. Once that station is in, we'll be the only signatory in the world providing true global communications—service in all four ocean regions. So, I'm very much convinced that we understand how, where and when we have to compete.

Number two, Customers. Listen to my words carefully. Competitive forces have taught us how to understand our customers better. I have to admit that the vicissitudes of the competitive marketplace have made us a better company. That's a pretty bold statement, but in fact it's true. Understanding customers has been an arrow in our quiver of capabilities, allowing COMSAT to make the systematic changes necessary to be successful. And that's kind of exciting. To the extent we've been successful, it's because we have discovered who the customers are and how to make them happy and satisfied.

I remember back in 1986 when I had just taken over the international business, I flew up to New Jersey with the then management team. We got in a rental car in Newark and headed out. And we got lost! We, the management team of the business, didn't know where our largest customer lived. I didn't quite understand the symbolism of that then as much as I do today, but that embarrassment was the catalyst that really forced a re-orchestration of the business and a focus

on our customers. It was the beginning of the change for our new general managers and a whole new management team. Just four years later, in a survey of its customers by Sales and Marketing Management magazine, the World Systems organization was named as the single best selling force in communications in the United States. That same magazine surveyed five other industries that year and the winners were, in their respective categories, Knight Ridder News, Procter and Gamble, RJR Nabisco, Reynolds Metals and United Parcel Service. COMSAT's in good company!

Number three, Culture. In order to be responsive to the competitive marketplace and to our customers, it was important that we change who we thought we were, how we perceived ourselves, and how other people perceived us. And a couple of subtle changes have been happening here that are very symbolic. Over the last several years we've begun to emphasize the word Corporation in our name. This is both to convince ourselves that we're not an inside-the-beltway government agency, and to convince others we are in fact a pragmatic company, operating for the benefit of our shareholders. The second thing we've done more recently is deemphasize the word satellite. The idea is that sometimes a little broader perspective in terms of satisfying customers' communications requirements makes sense, rather than too narrow a focus on satellite-only applications.

Culturally speaking, we're also empowering our employees. You've heard that expression before—it's kind of a chic phrase these days. What it really means at COMSAT is we are instituting more decentralization. The customer meets COMSAT in the marketplace at the division level. Therefore, it is important that our customers have access to people who have decision-making responsibility and the authority that goes along with such responsibility. Since that's at the division level, that's where the empowerment takes place. We're being run less by a central staff, and a lot more where the "rubber meets the road," i.e. where the customers meet COMSAT.

We're also going to avoid leading with our technological chin. We won't force-fit satellites to solutions where they aren't necessary or don't fit. While it was comforting and exciting over the last couple of days to stay up and watch the Endeavour's crew rescue the INTELSAT satellite, it was to a certain extent disconcerting to think that $400+ million rode on three individuals saying, "One, two, three, grab." You don't want to have all your eggs in one basket. That doesn't mean we're going to abandon satellites; rather we will continue to build on our strengths and our heritage. But we're not going to be blind to other opportunities, if and where and when they present themselves and make sense.

The industry doesn't even have a name yet for the business that we're in, in the sense that computers, telecommunications and entertainment are all merging into one business. It's happening because of satellites, it's happening because of digitization, and because of where technology is pushing things. The best words I've heard yet to describe the business, although I don't think this ultimately will be its name, is the digital transportation of information—or information transportation. Whatever it is called, COMSAT will be agile, pragmatic, and niche player. The reason I say niche is that these markets are going to be global and they're going to be consumer-based, and we're just not that big a company to go out and compete on all levels, on all fronts, in all ways and fashions on a global basis. But, there are opportunities, because of the rapid change and because of our nimbleness, where we will be able to participate, and we will be in the thick of this change and take advantage of this change.

There really isn't any magic involved in what we're attempting to do. We're sticking to the basics, we're going to work hard and work smart, we're going to out-hustle our competition, and we're going to have happy, satisfied customers.

## CONFERENCE REPORT FOR FISCAL YEAR 1993 TRANSPORTATION APPROPRIATIONS

Mr. HATFIELD. I would like to take this opportunity to thank the chairman and ranking member of the Transportation Subcommittee and clarify the conferees intent with regard to section 373 of the bill so there is no confusion as to the intent of the provision.

Section 373 was agreed to by the conferees in order to clarify the terms and conditions of interstate maintenance discretionary funds that the State of Oregon receives subject to Section 1069(t) of the Intermodal Surface Transportation Efficiency Act of 1991.

Mr. LAUTENBERG. It is clearly the intent of this chairman and of the conference committee that interstate maintenance discretionary grant funds received by the State of Oregon should be provided in addition to the State's annual obligation limitation. In addition, the conferees intend that section 373 will exempt any funds the State receives for the I–5 corridor in fiscal year 1992 through fiscal year 1997 under section 118(c)(2) of title 23, U.S.C., from being treated as allocations for interstate maintenance under section 157(a)(4) of title 23, U.S.C., and sections 1013(c), 1015(a)(1), and 1015(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991.

Mr. HATFIELD. Thank you for the clarification. I also note that the conferees have made clear in the Statement of Managers that the North Santiam River Bridge on I–5 is an extremely high priority and that FHWA should fund this project in fiscal year 1993 pursuant to section 1069(t) of ISTEA.

Mr. LAUTENBERG. The Senator from Oregon is correct.

Mr. HATFIELD. I thank the Senator.

## LEAVE OF ABSENCE

Mr. MURKOWSKI. Mr. President, I wish to inform the Senate that due to prior commitments in my home State this weekend, I will be departing later this evening for Alaska. I plan to return on Monday, if after consultation with the Republican leader Senator DOLE, it is determined that the Senate's schedule requires my presence.

In my absence, my able senior colleague from Alaska, Senator TED STEVENS, will remain in Washington to represent Alaska's interests.

## TRIBUTE TO SENATOR TIM WIRTH

Mr. CRANSTON. Mr. President, I rise today to pay tribute to a friend and colleague, Senator TIM WIRTH.

TIM WIRTH will be retiring from the Senate at the end of this session, but hopefully not from public life.

TIM's distinguished career in public service spans 25 years, starting with his White House fellowship in 1967. Elected to the Senate in 1986 after posts at the Department of Health, Education and Welfare and 12 years in the House, TIM is leaving the Senate after only one term. But he leaves with an exceptional record of accomplishments.

TIM has been extraordinarily active and effective on the great issues of our time, especially those relating to the environment and the future of our planet.

Perhaps best noted for his comprehensive approach to global environmental problems and championing of a world-wide view, TIM has provided critical leadership on global warming, ozone depletion, and protection of rainforests around the world, including our own Tongass National Forest.

TIM has worked hard on international population issues, seeking to bring back rational policies in a critical area where America's leadership has deteriorated.

As a member of the Banking, Housing, and Urban Affairs Committee on which we both served, TIM WIRTH has been a leader in helping make America's homes more energy efficient, using both the Federal housing programs and mortgage programs to bring energy efficiency standards into the mainstream housing market.

In his work on the Energy and Natural Resources Committee, TIM has been a champion of measures to improve energy efficiency and promote the use of natural gas.

TIM and I worked very closely together when the Senate considered reauthorization of the Clean Air Act, fighting for stricter air pollution control standards for cars and trucks and pushing for the introduction of alternatively fueled vehicles. He was a great ally, diligent in his efforts.

In fact, TIM has been an invaluable ally on many fronts.

TIM was an early supporter of my California desert protection bill.

He has fought persistently for reproductive rights for women, particularly to restore access to abortion services for American women serving overseas in our military.

He has been a steadfast partner in the battle for civil rights and opportunities for women and minorities, including indigenous peoples abroad.

And as a Deputy Whip when I served as Democratic Whip, TIM was an able vote counter and helpmate.

The Senate will miss TIM WIRTH. But I know he will continue to be personally engaged in the issues of our day and continue to be source of wisdom and strength.

TIM, my friend, I join our colleagues in wishing you well.

## ALAN DIXON

Mr. CRANSTON. Mr. President, few States combine the varieties of life that Illinois does. As the home of Chicago, our Nation's third largest city, Illinois faces the complex challenges posed by a major urban environment. But that is only part of the State. There is another side of Illinois, an equally important component that makes the State so special—and that is rural Illinois, where agricultural concerns are at issue.

These two features, the urban and the rural, give Illinois a unique character—it does not fit into one niche. A diverse State needs a multi-faceted representative and the senior Senator from Illinois, ALAN DIXON, has proven a versatile legislator. He has found many niches.

ALAN DIXON is neither an ardent liberal nor a staunch conservative. Rather, he has given voice to causes near to the hearts of constituents from all walks of life. They asked him to go to Washington, to go to work for them and he did exactly that.

As a member of the Agricultural Committee, ALAN DIXON worked diligently to provide farm credit relief for his rural constituents. He was also the founder and cochairman of the Senate corn caucus. This group acted to promote the utility of corn—particularly its use in ethanol—and ALAN DIXON was its driving force. I cannot think of two more worthy causes than working for the interests of constituents and working for a cleaner environment.

He has also served his urban constituents well. I say this having seen the work he accomplished during our time together on the Banking Committee. As chairman of the Subcommittee on Consumer Affairs, he proved a vigorous leader in fighting consumer discrimination, red-lining, and mortgage discrimination. He also showed fervor in improving the plight of inner cities and increasing spending for mass transit. These are the achievements of a committed public servant.

And it is to public service that ALAN DIXON has devoted the majority of his life—for 40 years he has served the people of Illinois admirably. He began his service as Police Magistrate in his hometown of Belleville, continued it in both houses of the Illinois State legislature, and then extended it to statewide offices, serving as treasurer and secretary of state. In 1981, ALAN DIXON brought that service to the U.S. Senate, committing himself to making tangible improvements in the lives of all Illinoisans.

ALAN DIXON did not only serve the people of Illinois during his time in this Chamber, he served his colleagues well too. As chief deputy Democratic Whip, he provided insight and support that was invaluable to the Democratic Party and to me during my service as Democratic Whip. And I was not alone in this view. The fact that his peers twice elected him unanimously to that post attests to our great confidence in him.

Though ALAN DIXON served our party well, his passion was strongest in his commitment to serve the people of Illinois—and he did that with distinction. He brought energy and enthusiasm to his work and this body will miss his presence. ALAN DIXON can take pride in his tenure here—there is much he has accomplished, much to be proud of. I thank him for all he has done and wish him well in his future endeavors.

## JAKE GARN

Mr. CRANSTON. Mr. President, as each of us knows, the individuals who comprise this body represent a wide range of backgrounds and experiences. Of course, that's as it should be. We've had war heroes and business leaders, movie stars and college professors, journalists and judges. Not surprisingly, the more daring type of physical exploits of Members usually precede one's tenure here. Usually, but not always.

The senior Senator from Utah has one up on his Senate colleagues. Or perhaps I should say he has 109 up. JAKE GARN will be remembered for many things, I'm sure. But at the top of the list will always be his distinction as the first Member of Congress to orbit the Earth while serving in Congress. Taking to new heights, literally, his responsibility to learn as much as possible about the programs Congress funds, Senator GARN spent 7 days in 1985 as a payload specialist on flight 51–D of the space shuttle Discovery. I, for one, will be eternally envious.

I'm sure, too, that the men and women who make America's space program great will be eternally thankful for Senator GARN's enthusiastic support for their work. He shares their dreams and his commitment to their efforts has been total. The space station, a manned mission to Mars, and a permanent colony on the Moon are just a few of the goals toward which he has worked.

Senator GARN has covered a lot of ground here on Earth as well. He served for 6 years as chairman of a committee on which I also serve, the Committee on Banking, Housing, and Urban Affairs. His efforts and input were invaluable to me in 1989 as we worked together to improve the Community Reinvestment Act. In addition to the full committee, we both also serve on the Subcommittee on Housing and Urban Affairs. Although our States are very different, as are our ideas of the best use of Government, I believe we complemented each other well over the years.

We always found we could work together in a friendly, trusting, straightforward and effective way—often working out compromises that bridged wide gaps between the Democratic and the Republican sides.

Senator GARN's work here has obviously been to the liking of his constituents, who chose to return him to the Senate in 1980 and 1986 by overwhelming majorities of 74 percent and 72 percent. I know they'll miss him and his commitment to their concerns.

I don't know what all of his plans for the future include, but I hope that if he makes it on that mission to Mars he remembers how much I'd love to see the pictures he brings back.

## THE RETIREMENT OF CONGRESSMAN FRANK ANNUNZIO

Mr. D'AMATO. Mr. President, I rise today to pay tribute to one of my close friends and esteemed colleagues, FRANK ANNUNZIO, who will be retiring from the House of Representatives in a few short months after 28 years of distinguished service.

FRANK was always accessible to his constituents and his colleagues, and his easygoing personality made it much easier to extend a hand across bipartisan lines and legislative aisles. When a sticky problem had to be worked out, or a difficult compromise had to reached, FRANK was always ready to roll up his sleeves and get to the task at hand. This attitude helped him craft many significant pieces of banking legislation which I was fortunate enough to work with him on over the years.

FRANK's banking philosophy was premised on two fundamental principles: safety and accessibility. He strived to make the Federal deposit insurance system fiscally responsible and financially safe, while making banking services readily available and easily accessible to all consumers. The pieces of banking legislation he helped pass were constantly guided by these principles. Some of these measures included: the Truth in Lending Act, the Consumer Leasing Act, the Electronic Funds Transfer Act, the Financial Institutions Reform Recovery and Enforcement Act, and the FDIC Improvement Act.

In handling his legislative duties, FRANK had a definite flair and style about him. As chairman of the House Administration Committee and the Subcommittees on Consumer Affairs and Financial Institutions, his hearings and witness lists were legendary. Who could ever forget the time he chaired hearings on the Fair Debt Collection Practices Act and brought in a

former debt collector in a black hood and dark sunglasses to underscore the abusive practices that consumers were then subject to from debt collectors.

Who could also forget his tireless pursuit of financial institution criminals. FRANK passed out "Put the S&L Crooks in Jail" buttons everywhere he went, and oversaw a subcommittee study which uncovered that convicted bank criminals were only paying pennies on every dollar of restitution and fines owned to the Federal Government despite still living lavish lifestyles.

FRANK also exposed waste and abuse in the lifestyles of Federal regulators as well. For example, his subcommittee issued a report showing lavish expenses by the Federal bank regulators including the purchase of 3,000 Asian cookbooks by the Federal Deposit Insurance Corporation at a cost of over $7,000, and the purchase of 36 coffee mugs and 12 golf shirts by the Resolution Trust Corporation for a total cost of over $3,000.

In addition to being a great legislator, FRANK has also been a tremendous leader and role model to Italian-Americans throughout this country. He was one of the founders of the National Italian American Foundation and has served on numerous advisory boards and panels, all to promote the exchange of ideas and better relations between Italy, the United States, and its citizens.

FRANK's impact will be felt for a long time around here, but his presence will be sorely missed when the 103d Congress convenes. I wish him and his lovely wife Angie much health and happiness in their retirement years.

## METALS RECOVERY STUDY

Mr. SPECTER. Mr. President, on Friday, September 25, 1992, the Senate approved the conference report to H.R. 5679, the HUD/VA appropriations bill. The bill included an amendment authored by Senators GARN and CHAFEE, with a section authored by me calling for a metals recovery study. At that time I submitted no remarks as the content of the amendment was clearly understood between all drafting parties and appeared unambiguous. At this time, however, I would like to submit comments pertaining to the metals recovery study portion of the amendment which I authored.

I am advised that there is significant uncertainty within EPA's regulatory programs as to whether recovered, or partially recovered, materials—whether an interim metals compound or refined metals—remain wastes or are in fact products. It has also been represented to me that there is some confusion within the agency's regulatory programs as to whether these metal recovery facilities are industrial operations, because they manufacture products or are waste treatment operations under EPA's broad regulatory definitions.

The study provision requires the EPA to conduct a study of the effect of existing regulations on attempts to recover metals from our Nation's wastes, and to report to the Congress by April 28, 1993. This will help us better understand why many interim industrial materials—although designated as hazardous due to the presence of heavy metals—may in fact be significant resources which could be recovered so as to reduce the massive quantities of waste now landfilled in our country. Another advantage in recovering these materials would be a reduction in our dependence on mining and/or importing of vital virgin materials. While scrap metal has been adequately addressed in the past, this amendment focuses on resource-rich wastes deemed hazardous.

Mr. GARN. I rise in agreement with the gentleman from Pennsylvania. Metals recovery is not only extraordinarily important to his State, one of the largest steel-producing States which therefore contributes to the generation of hundreds and hundreds of thousands of tons of metals-rich waste annually, but also similarly vital to other steel producting States such as Texas, Ohio, and Indiana, and my own. Indeed, it is vital to the Nation, with heightened concerns for environmentally sound materials management practices and diminishing space for land disposal, that we reclaim as many resources as we safely can from what would otherwise be considered waste.

The metals industry is unique among the activities which we addressed in the hazardous waste amendment, and the metals recovery study amendment recognizes that there may be great potential in safely assisting and increasing our capacity for recovering metals from hazardous waste materials.

Mr. NICKLES. I, too, agree with my colleague from Pennsylvania. This provision will enable Congress to benefit from a comprehensive review of the metals recovery industry in time for hearings on the controversial revisions to the mixture and derived-from rules. These very important hearings, which are expected to occur early next session, will be enhanced by the agency's presentation of the effect of existing regulations on efforts to recover metals from the Nation's wastes, and how the materials should be regulated to be consistent with the objectives of the Resource Conservation and Recovery Act.

## FLSA AND PRISON LABOR

Mr. REID. Senator KENNEDY, I would like to express my concern over the recent ninth circuit court decision holding that prisoners are entitled to minimum wages for work performed in a prison. I have heard from many State governments and prison directors that they cannot possibly afford to pay minimum wages to prisoners and that they would have to discontinue their prison work programs. I think this would be tragic. These prisoners gain valuable job training and work experience, and the prisons gain by occupying the otherwise idle time of their inmates. Given these concerns, do you think the Committee on Labor and Human Resources should hold hearings as soon as we convene in the new year to investigate this subject and invite prison directors and officials to testify?

Mr. KENNEDY. I am aware of the ninth circuit decision, and I know that it has prompted concerns among prison officials who are involved in the operation of prison industries programs.

Prison work programs that give inmates opportunities to learn new skills and acquire work experience that will help them find productive employment when they are released can be of great social benefit, provided that they are carefully structured so as not to take away jobs or drive down the wages of workers on the outside. Since legitimate questions have been raised about the impact the ninth circuit's decision might have on the continued viability of various prison labor programs, I am certainly willing to have hearings on this issue in the Labor and Human Resources Committee early in the next Congress, and I look forward to working with the Senator from Nevada to achieve a satisfactory resolution.

### FLSA AND PRISON LABOR

Mr. REID. Mr. President, on August 10, I offered legislation along with Senators BRYAN, DOLE, GRAHAM, MCCAIN, COHEN, and D'AMATO, to clarify the status of prisoners under the Fair Labor Standards Act. This is necessary because State governments in the ninth circuit, which includes my home State of Nevada, are in a quandary. The circuit court has reversed a decision delivered a year earlier which denied prisoners minimum wage protections afforded by the Fair Labor Standards Act—an act fought hard for by the labor unions of this country to protect our average, blue collar workers from the evils of big business. If this aberration of a court decision is allowed to stand, the work programs in prisons will discontinue. That means every work project: including the small amount of sophisticated manufacturing to the menial sweeping up of the grounds.

The State governments simply cannot afford to pay minimum wage for maintenance services. Mr. President, I am not saying that prisoners should not be paid. In fact, I encourage some type of compensation. Some of these wages go to child support, victim restitution and other valuable programs.

The seventh circuit last month, in Vanskike versus Peters, expressly rejected the ninth circuit Hale decision,

by finding the twin aims of the FLSA inapplicable to prison labor. The first FLSA purpose, ensuring a minimum standard of living for workers, has no application to prisoners because their basic needs, food and shelter, are already constitutionally provided. The second purpose, preventing unfair competition, has received extensive congressional attention in the context of prison labor.

Congress assumed the responsibility of regulating prison labor 3 years before enacting the FLSA, in the Ashurst-Sumners Act. If the FLSA was intended to cover prisoners, the Ashurst-Sumners Act would have been rendered superfluous. Yet Congress has since amended and recodified the Ashurst-Sumners Act, providing authority for certain prison work programs and the wages to be paid prisoners, thereby clearly expressing intent to keep prison labor under laws other than the FLSA.

The Ashurst-Sumners Act requires that the prison pay the prevailing wage of the locality so as not to dilute any wages of nonincarcerated individuals. Here is the law that regulates prison wages. Why bring in the Fair Labor Standards Act in 1992? If there is a problem with what prisoners are paid under work programs, change these governing and authorizing statutes in the State and Federal law. But do not bring in the FLSA in 1992 to protect hardened criminals.

If we allow this decision to stand, we open ourselves to a whole host of decisions from this circuit court regarding other protections intended only for our hard-working laborers. What should we expect next? Unemployment compensation for prisoners? Holidays and vacation time for prisoners? Job security? Collective Bargaining? Mr. President, I urge my colleagues to send a message to this circuit court to allow the Fair Labor Standards Act to protect those it was intended to protect and not to bust the budgets of our State governments.

Mr. President, I will file legislation to correct this situation as soon as the 103d Congress convenes. Senator KENNEDY has agreed to hold hearings in the Labor and Human Resources Committee to study this matter. Mr. President, I would like to enter into the record the numerous letters of support I have received from across the country so that the committee may invite these individuals to submit data and testify at the hearings.

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

ARIZONA DEPARTMENT OF CORRECTIONS,
*Phoenix, AZ, September 15, 1992.*

Hon. ED. PASTOR,
*U.S. House of Representatives, Longworth House Office Building, Washington, DC.*

DEAR REPRESENTATIVE PASTOR: On June 24, 1992, the 9th Circuit Court of Appeals ruled, in *Hale and Fuller v. Arizona*, that working Arizona inmates come under the Fair Labor Standards Act and should be paid minimum wages for work performed in prison. The effect of this court ruling, if allowed to stand, will be to create serious financial problems for our state in paying for the programs in our prison system.

I strongly object to this course of action and have asked our Attorney General to file an appeal to this case.

We have been informed that Senate Bill 3160 has been initiated by two Nevada senators designed to overturn this nonsense.

I invite your attention to the comments expressed in the attached newspaper article and agree with them wholeheartedly-inmates are not entitled to the minimum wage, even the idea is repugnant.

I encourage your proactive support.

SAMUEL A. LEWIS,
*Director.*

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DEPARTMENT OF CORRECTIONS,
OFFICE OF THE SECRETARY,
*Topeka, KS, September 24, 1992.*

Senator BOB DOLE,
*Hart Senate Office Building, Washington, DC.*

DEAR SENATOR DOLE: This letter is to urge your support for S 3160 which was recently introduced in the Senate. This legislation amends the Fair Labor Standards Act of 1938 to ensure that inmates are not treated as employees for purposes of the Act.

This legislation was proposed because of a recent decision of the Ninth Circuit Court of Appeals which held that the Fair Labor Standards Act is applicable to inmate labor in correctional facilities. This would mean that inmates would have to be paid minimum wage as compensation for the labor they perform while incarcerated. Obvious and significant financial implications to state and local governments would result from extension of the Act to cover inmates. We do not believe the Fair Labor Standards Act was intended to be applied in this manner and urge that legislation be enacted to ensure that it will not be interpreted by other courts as applying to prison inmates. I have read the comments of Senators Reid and Bryan in the Congressional Record of August 10, 1992 and believe they present a sound justification for S. 3160.

I urge you to support enactment of this legislation.

Sincerely,

GARY STOTTS,
*Secretary of Corrections.*

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DEPARTMENT OF CORRECTIONS,
OFFICE OF THE SECRETARY,
*Topeka, KS, September 25, 1992.*

Senator HARRY REID,
*Hart Building, Washington, DC.*

DEAR SENATOR REID: This letter is to inform you of our support for S 3160 which you have introduced. I have enclosed copies of letters which we have mailed to Senators Dole and Kassebaum urging them to support this legislation as well.

Place let me know if we may be of any assistance to you in this matter.

Sincerely,

GARY STOTTS,
*Secretary of Corrections.*

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AMERICAN CORRECTIONAL
INDUSTRIES ASSOCIATION, INC.,
*St. Petersburg, FL, September 24, 1992.*

Re Hale versus Arizona

Hon. HARRY REID,
*U.S. Senator, Hart Office Building, Washington, DC.*

DEAR SENATOR REID: Support your objective to amend the Fair Labor Standards Act to exempt inmates from the "employees purposes of the legislation." My company agrees with your closing statement so adequately expressed, "is ridiculous and. I think we as a Congress should rectify it and do it quickly."

I am sure you are aware that in Senator Graham, you have an individual who is perhaps more knowledgeable than most political leaders concerning Prison Industries. The Senator was Governor of Florida at the time the Florida Legislature created PRIDE, a private, not for profit company to take over and manage Florida's Prison Industry Program. It was through Governor Graham's bold and progressive leadership that PRIDE was recognized as a national role model for Prison Industries.

Please advise me if there is anything I might do to assist you.

Sincerely yours,

J. FLOYD GLISSON,
*President.*

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CORRECTIONAL INDUSTRIES
ASSOCIATION, INC.,
*Waterbury, VT, September 15, 1992.*

Re Senate bill 3160.

Hon. HARRY REID,
*U.S. Senate, Washington, DC.*

DEAR SENATOR REID: I wish to lend my full and unqualified support to your efforts to resolve the serious fiscal implications related to "Hale vs Arizona", created by the Ninth Circuit Court decisions.

The Fair Labor Standards Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Prison Industry Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance, food service, laundry services and Industries' programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purposes stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities;

and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

The Corrections' population in our State and Federal systems has virtually doubled in the last decade and approaches 1 million offenders, at an operating cost alone of some $25 billion annually.

Unless greater attention is given to cost reductions, the drain on scarce tax supported resources will continue unabated, at the expense of other essential social needs. The Ninth Circuit decision, if allowed to stand, would impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your associates to join with you in eliminating the confusion in our courts by passing your amendment.

My personal time and services are available to you if I can be of any service.

Sincerely yours,

ROBERT M. MARTINEAU,
*President.*

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CORCRAFT,
*Menands, NY, September 21, 1992.*

Mr. ROBERT M. MARTINEAU,
*Director, Correctional Industries, Waterbury, VT.*

DEAR BOB: Larry Kyle asked me to provide you with some financial information regarding what's going on in Arizona and the Fair Labor Standards Act. We did some quick calculations and our figures show that if we paid inmates in our facilities the current minimum wage, we would increase our inmate wage costs seven (7) fold. That would translate to an additional cost to us of $12,360,000. Right now, we pay inmates an average of $.60 per hour.

Last year our income before covering non-operating expenses was $1.8 million. As you and I have discussed, we cover the costs of the security officers in our shops and 15 vocational instructors associated with our program. By the time we cover the $5.5 million associated with these non-operating expenses, we showed a loss of $3.7 million. If we were required to pay the inmates in the program minimum wage, we would have shown a loss of $10.6 million, before including non-operating expenses, and a total loss of $16 million, after covering non-operating expenses. Obviously, any requirement that we pay inmates minimum wage, which is not offset by some other factor, would devastate us.

Sincerely,

JOHN W. CONROY,
*Director of Correctional Industries.*

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PHILADELPHIA CORRECTIONAL INDUSTRIES,
*Philadelphia, PA, September 17, 1992.*

Hon. HARRY REID,
*U.S. Senate, Washington, DC.*
Re: Senate bill 3160.

DEAR SENATOR REID: I wish to lend my full and unqualified support to your efforts to resolve the serious fiscal implications related to "Hale vs. Arizona", created by the Ninth Circuit Court decisions.

The Fair Labor Standards Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Prison Industry Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance, food service, laundry services and Industries programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purpose stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities; and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

The Corrections population in our state and federal systems has virtually doubled in the last decade and approaches one million offenders, at an operating cost along of some $25,000,000,000.00 annually.

Unless greater attention is given to cost reductions the drain on scarce tax supported resources will continue unabated, at the expense of other essential social needs. The Ninth Circuit decision, if allowed to stand, would impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your associates to join with you in eliminating the confusion in our courts by passing your amendment.

My personal time and services are available to you if I can be of any service.

Sincerely yours,

ROBERT J. GORSKI, PH.D.,
*Director.*

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STATE OF NEVADA,
DEPARTMENT OF PRISONS,
*Carson City, NV, September 15, 1992.*

Hon. HARRY REID,
*U.S. Senate, Washington, DC.*

DEAR SENATOR REID: Thank you for your efforts on behalf of Prison Industries as evidenced in the Reid Amendment to the Labor Appropriation Bill. Although most of the inmates working in Prison Industries in Nevada are being paid minimum or near minimum wage, the impact of protecting inmates under the Fair Labor Standards Act would be devastating. We anticipate a weekly cost of $5,000 to $12,000 in wages alone. More importantly are the potential implications in creating employee status for inmates.

It is this status which can and probably will severely limit our ability to function effectively. Having inmates covered as employees opens the door to a number of problems which will severely limit our ability to control our institutions.

If there is anything else that can be done by us to assist you please let me know.

Very truly yours,

HOWARD L. SKOLNIK,
*Assistant Director.*

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NEVADA LEGISLATURE,
*September 15, 1992.*

Hon. HARRY REID,
*U.S. Senate, Washington, DC.*

DEAR SENATOR REID: As Chairman of the Prison Industry Advisory Board in Nevada, I am deeply concerned with the implications of the recent decision by the 9th Circuit Federal Court of Appeals in Hale v. Arizona. It is my understanding that this court decision determined that all inmates working for Arizona correctional industries programs (ARCOR) are covered by the Fair Labor Standards Act (FLSA); are to be considered employees of the State of Arizona; and are, thereby, entitled to minimum wage as well as other protections of the FLSA. It is also my understanding Arizona is appealing this decision to the 9th Circuit en banc review and anticipates that if the decision is affirmed, the state will seek review by the U.S. Supreme Court.

The decision determined that the inmates laboring for ARCOR in the manufacturing of license plates, prison beds, mattresses and other in-house industries in Arizona were specifically covered by the FLSA. While the full implications of the decision are not yet known, the creation of an employee status for inmates may open the door to entitlement to unemployment compensation, workmens' compensation, minimum wage and overtime for all inmates working within correctional settings. The potential cost of this benefit for inmates is staggering.

As Chairman of the Prison Industry Advisory Board in Nevada, I would like to go on record in support of your amendment to the Fair Labor Standards Act of 1938 which would define the term, "employee," to not include any inmate of a penal or correctional institution of a state or political subdivision of a state.

With best regards,

Assemblyman JOHN MARVEL,
*Chairman, Nevada's Prison Industry Advisory Board.*

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CRIMINAL JUSTICE ASSOCIATES,
*Philadelphia, PA, September 15, 1992.*

Senator HARRY REID,
*U.S. Senate Office Bldg., Washington, DC.*

DEAR SENATOR REID: As a consulting firm doing work with state and county prison industries, Criminal Justice Associates is writing to support your efforts to prevent certain classes of prison inmates from attaining employee status under the FLSA. We are particularly concerned that institutional maintenance workers not be included in definitions of employee under the legislation.

We wish to point out, however, that under P.L. 96-157, Sec. 128, now codified at 18 U.S.C. 1761(c), inmates participating in the U.S. Department of Justice's Private Sector Prison Industries Enhancement Program—including those in Nevada—are now considered to be employees and thus should be exempted from your proposed amendment.

Sincerely,

BARBARA J. AUERBACH,
*Partner.*

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MISSOURI DEPARTMENT OF CORRECTIONS, DIVISION OF ADMINISTRATION,

*Jefferson City, MO, September 16, 1992.*
Re Senate bill 3160.
Hon. HARRY REID,
*U.S. Senate, Washington, DC.*

DEAR SENATOR REID: I wish to lend my full and unqualified support to your efforts to resolve the serious fiscal implications related to "Hale vs Arizona", created by the Ninth Circuit Court decisions.

The Fair Labor Standards Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Prison Industry Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance, food service, laundry services and Industries' programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purposes stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities; and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

Unless greater attention is given to cost reductions, the drain on scarce tax supported resources will continue unabated, at the expense of other essential social needs. The Ninth Circuit decision, if allowed to stand, could impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your associates to join with you in eliminating the confusion in our courts by passing your amendment.

Sincerely,

WILBUR W. GOOCH, Jr.,
*Administrator,*
*Missouri Correctional Enterprises.*

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STATE OF WISCONSIN,
DEPARTMENT OF CORRECTIONS,
*Madison, WI, September 24, 1992.*
Hon. ROBERT W. KASTEN,
*U.S. Senate, Washington, DC.*

DEAR SENATOR KASTEN: I wish to lend my full support for passage of S. 3160 introduced by Senator Reid. This legislation will resolve a serious fiscal problem created by the Ninth Circuit Federal Appeals Court in its Hale v. State of Arizona decision. Essentially, this decision states that inmates working in prison industries are covered under the Fair Labor Standards Act and are therefore entitled to minimum wage as well as other protections of the FLSA.

We do not feel that it was ever the intent of Congress to include inmates working for the correctional system under the Act. The FLSA was enacted in 1938 to assure that working men and women received a wage substantial enough to meet a person's life sustaining needs. Prison inmates are provided adequate food, clothing, living quarters, health services and other necessities of life at no cost to the inmate.

The Ninth Circuit Court has decided that FLSA rights and compensation should be provided to inmates in prison industries. Full implementation of this decision on a national scale would impose a substantial financial burden on the State of Wisconsin. The result will be either increased inmate idleness in overcrowded prisons or the appropriation of substantially more tax dollars for higher inmate wages.

I urge you to support S. 3160 which would clarify that inmates working in prison industries or regular institution work assignments are not covered under the Fair Labor Standards Act.

If you need any additional information, please let me know. Thank you for your consideration of this issue.

Very truly yours,

PATRICK J. FIEDLER,
*Secretary.*

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STATE OF WISCONSIN,
DEPARTMENT OF CORRECTIONS,
*Madison, WI, September 24, 1992.*
Hon. HERBERT H. KOHL,
*U.S. Senate, Washington, DC.*

DEAR SENATOR KOHL: I wish to lend my full support for passage of S. 3160 introduced by Senator Reid. This legislation will resolve a serious fiscal problem created by the Ninth Circuit Federal Appeals Court in its Hale v. State of Arizona decision. Essentially, this decision states that inmates working in prison industries are covered under the Fair Labor Standards Act and are therefore entitled to minimum wage as well as other protections of the FLSA.

We do not feel that it was ever the intent of Congress to include inmates working for the correctional system under the Act. The FLSA was enacted in 1938 to assure that working men and women received a wage substantial enough to meet a person's life sustaining needs. Prison inmates are provided adequate food, clothing, living quarters, health services and other necessities of life at no cost to the inmate.

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I urge you to support S. 3160 which would clarify that inmates working in prison industries or regular institution work assignments are not covered under the Fair Labor Standards Act.

If you need any additional information, please let me know. Thank you for your consideration of this issue.

Very truly yours,

PATRICK J. FIEDLER,
*Secretary.*

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ILLINOIS DEPARTMENT OF CORRECTIONS,
*Springfield, IL, September 16, 1992.*
Hon. HARRY REID,
*U.S. Senator, Washington, DC.*

DEAR SENATOR REID: It is my understanding that you have introduced an amendment to the Labor appropriations bill which will ensure that incarcerated individuals are not covered by the Fair Labor Standards Act.

This letter is to support your amendment. If inmates were to be covered, it would render Departments of Corrections substantially unable to utilize inmate labor in ways that are consistent with good corrections practice and with needs of inmates to learn and develop work skills and habits. It would be most inappropriate under such conditions for incarcerated individuals to receive prevailing wage. Inclusion of incarcerated people in the Fair Labor Standards Act would therefore be a substantial cost burden to the taxpayers and the system of incarceration.

We encourage your effort to see your amendment pass.

Sincerely,

HOWARD A. PETTERS III,
*Director.*

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ASSOCIATION OF STATE
CORRECTIONAL ADMINISTRATIONS,
*South Salem, NY, September 16, 1992.*
Senator HARRY REID,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR REID: The Association of State Correctional Administrators is a national professional association whose membership consists of the Directors of the 50 state prison systems as well as several other major correctional agencies. As the leaders of the nation's correctional agencies, they are responsible for the care and control of more than 800,000 inmates and lead a work force of more than 250,000.

I am writing to express our strong support for the amendment you are proposing to the Labor Appropriations bill, which would amend and clarify the provisions of the Fair Labor Standards Act to exclude inmates from those provisions. As you know, a recent decision by the U.S. District Court in Arizona brings prison inmates under the provisions of the Act. Although the case is on appeal, the court's decision runs the risk of doing serious harm to our prison systems, all of which are already seriously financially overburdened. If the Act is not amended, the very real risk is run of having to terminate state prison employees in order to find the funds to pay inmates wages and benefits comparable to those received by ordinary citizens. That situation would be intolerable.

Further, as a consequence of the court's decision, an employer-employee relationship between staff and inmates would be created. Such a relationship would make the operation of every prison in the country very problematic. It is an unnecessary burden to place on our prison systems and the people who operate them.

We hope that your colleagues will support your amendment with the same level of intensity and unanimous commitment as our membership. If you have any questions, please call.

Thank you very much.

Sincerely,

GEORGE M. CAMP,
*Executive Director.*

IOWA PRISON INDUSTRIES,
*Des Moines, IA, September 16, 1992.*

Hon. TOM HARKIN,
*U.S. Senate, Washington, DC.*

Reference: Senate Bill 3160.

DEAR SENATOR HARKIN: May I urge your support of the amendment to the Appropriations Bill being offered by Senator Harry Reid of Nevada.

This amendment seeks to clarify the intent of Congress that the FLSA was not intended to apply to incarcerated offenders, as the U.S. 9th Circuit Court of Appeals has recently held in Hale vs. Arizona.

This amendment is vital to Iowa Prison Industries. If minimum wage is applied to inmates who participate in the programs of our workshops those shops will be forced to close, due to paying productive labor rates for what is essentially a training enterprise.

The average Iowa inmate has never held a long term, economically productive job, has dropped out of school before finishing the twelfth grade, has received no vocational/technical or apprenticeship training, and consequently reads at the ninth grade level and uses math at the fourth grade level.

Iowa Prison Industries provides over 500,000 hours of training annually to such inmates. Research has shown that inmates who work in Iowa Prison Industries have the lowest recidivism rate of any treatment group, and that they also commit sixty percent fewer rules infractions than the general population. We believe this is because in our workshops we address some of the major problems which caused our inmates to fail in society.

We urge your support of an amendment which will protect this vital program, which has a record of successful rehabilitation of the inmates in our care.

Sincerely,

HARRY CANNON, PH.D.,
*Deputy Director for Industries, Department of Corrections.*

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STATE OF UTAH,
DEPARTMENT OF CORRECTIONS,
*Draper, UT, September 16, 1992.*

Hon. E.J. "JAKE" GARN,
*U.S. Senate, Washington, DC.*

DEAR SENATOR GARN: I am writing to encourage your support of this bill sponsored by Senator Harry Reid of Nevada. The bill is intended to clarify the intent of the Congress, which has been that the FLSA was not intended to apply to incarcerated offenders.

This clarification is necessitated by recent decisions by the Ninth Circuit Court in "Hale vs Arizona." In these decisions the court held that an employee/employer relationship existed between Arizona Correctional Industries and inmate workers. This decision appears to mean that inmates working in certain Arizona Correctional Industries programs must be paid Federal minimum wages for their labor.

The Fair Labor Standard Act of 1938 was enacted to assure that able bodied working men and women would receive fair wages for a day's work. Also, it was intended to provide some means wherein a person could meet certain essential life sustaining necessities.

Offenders lodged in our correctional facilities are wards of the jurisdictions and are thereby assured that adequate food, shelter, medical care and all necessary amenities to survive are available at no cost to the offender. The FLSA was not intended to supplant this arrangement by including offenders in its provisions.

In certain circumstances, offenders do receive minimum or prevailing wages now under the provisions of the Federal Private Sector/Prison Industries Enhancement program, an outcome of the original Percy amendment in 1979. This applies whenever joint ventures with the private sector involve offender labor. This measure protects against unfair competition and exploitation of offender workers.

In the general operation of facilities, however, and in the work and training programs offered in Correctional Industries, there is no calculable reason for applying the FLSA. There is, in fact, a clear absence of any employer/employee relationship in offender programs where work is performed to reduce the costs of incarceration and promote the rehabilitation of offenders. Facility maintenance food service, laundry services and industries' programs clearly fall under long standing and traditional state statutes authorizing these endeavors for the purposes stated above.

To enroll all offenders working in these categories into the FLSA provisions, with unemployment compensation and all other free world entitlements, would so radically change the costs and environments of our institutions as to render them uncontrollable in taxpayer costs and correctional management. Work and training programs would necessarily become extinct by virtue of payroll costs alone; with the attendant increase in idleness and disruptions and costs of simple maintenance and support of facilities; and the replacement costs for additional supervision. Idleness in a warehouse atmosphere would likely prevail.

The Corrections' population in our State and the Federal systems has virtually doubled in the last decade and approaches 1 million offenders, at an operating cost alone of some $25 billion annually.

Unless greater attention is given to cost reductions, the drain on scarce tax supported resources will continue unabated, at the expense of the other essential social needs. The Ninth Circuit decision, if allowed to stand, would impose a great disservice to the law abiding, taxpaying citizens of this country.

I urge your support and the support of your colleagues, for Senate Bill 3160.

Sincerely,

RICHARD A. CLASBY,
*Director, Utah Correctional Industries.*

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DEPARTMENT OF
CORRECTIONS AND REHABILITATION,
*Bismarck, ND.*

To: Senator Harry M. Reid, United States Senator—Nevada.

From: Elaine Little, Director.

Date: September 17, 1992.

Re: Amendment to Fair Labor Standards Act to exclude inmates from its provisions.

I am writing to express my strong support for your proposed amendment to exclude inmates from the provisions of the Fair Labor Standards Act. The applicability of the Act to inmates has been a question and concern to us for some time. Including inmates under the provisions of the Fair Labor Standards Act would place an extreme hardship on the North Dakota corrections system. This would not only be very detrimental to our department, but since our system could not afford to meet the provisions of the Fair Labor Standards Act for inmates, there would be many fewer inmates who could benefit from work programs, etc. Therefore, we strongly endorse your amendment to exclude inmates from the provisions of the Fair Labor Standards Act.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION,
*Columbus, OH, September 17, 1992.*

Hon. HARRY REID,
*U.S. Senator, Washington, DC.*

DEAR SENATOR REID: I would like to express my strong support for passage of your proposed amendment to the Fair Labor Standards Act which I believe is of critical importance to the State of Ohio.

As you are aware, the Correctional Industries Association has expressed concern with the implications of the recent 9th circuit federal appeals court decision *Hale* v. *Arizona*. Should this decision stand, it could open the door to states paying for unemployment, worker's compensation, minimum wage and overtime for all inmates working within prisons. The cost implications for Ohio are staggering.

I would like to offer my support and assistance to your prepared legislation. Should you need additional information regarding the potential impact of the court's decision on Ohio or assistance from my office in your efforts to obtain passage of this critical legislation, please contact me or my Legislative Liaison, Scott Neely, at (614) 431-2762.

Sincerely,

REGINALD A. WILKINSON,
*Director.*

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STATE OF WASHINGTON,
DEPARTMENT OF CORRECTIONS,
*Olympia, WA, September 18, 1992.*

Hon. HARRY M. REID,
*U.S. Senate, Senate Office Building, Washington, DC.*

DEAR SENATOR REID: I wholeheartedly support your amendment that would exclude inmates from the Fair Labor Standards Act. The application of FLSA to inmate populations could well have the affect of destroying legitimate work programs that presently provide healthy activity, job skill training and solid work habits for those incarcerated. States simply do not have funds available to meet FLSA requirements. Such a loss would be devastating to generally overcrowded correctional facilities across the country.

Thank you for sponsoring this amendment.

Sincerely,

CHASE RIVELAND,
*Secretary.*

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LAW OFFICES OF,
LEONARD, RALSTON, STANTON & DANKS,
*Washington, DC, September 16, 1992.*

Hon. HARRY M. REID,
*Chairman, U.S. Senate, Hart Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: We represent the 18,000 employees of the Federal Bureau of Prisons who are members of the Council of Prison Locals of the AFL-CIO.

We have been directed by the President of the Council to vigorously support the proposed Amendment to the DOL Appropriations Bill which would overturn Hale v. Arizona, a decision recently rendered by the United State Court of Appeals for the 9th Circuit.

Please understand that our employees are dues paying members of the AFL-CIO employees with a contrary position should be totally disregarded.

Our employees support this legislation because it would reverse a court decision which would put in jeopardy of bodily injury or death every member of our union who daily must work in the presence of convicted felons.

Senator, we know that you understand that even office secretaries in the Bureau are

in continuous contact with those people who society has decided are not ready to be with the wives and children in our communities. Unlike the law enforcement officer, these prison workers are constantly surrounded by convicted felons many of whom have violent records.

Senator, these workers are your workers. You and your colleagues are their employers on whom they and their families must rely.

Senator, the issue here is simply. Every time someone makes it more difficult to operate our prisons by restricting the ability of Federal Prison Industries to control the prison environment and safeguard the prison employees and the prisoners themselves, there is a greater likelihood of prison riots, violence, injury, death and destruction of prison property. There are simply too many examples of this fact for it to be disputed.

We need and urgently request that you do all in your power to support the Reid Amendment to the DOL Appropriations Bill.

Sincerely,

JERRIS LEONARD,
*Washington Counsel,*
*Council of Prison Locals.*

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CORRECTIONAL PRODUCTS
& SERVICES, INC.,
*Westminster, CO, September 18, 1992.*

Hon. HARRY REID,
*U.S. Senate, Hart Office Building, Washington, DC.*

DEAR SENATOR REID: As an owner of a private sector company and as Chairman of the Correctional Industries Association Corporate Relations Committee, I wish to express my complete support to you in your effort to resolve the chaos that will result from the recent "Hale vs. Arizona" ruling in the Ninth Circuit Court.

As a taxpayer, I find it difficult to comprehend, and would find it even harder to explain to my taxpaying employees why their jobs are in jeopardy because tax-costing offenders gain the benefits of the Fair Labor Standards Act.

The Fair Labor Standards Act is excellent legislation to the benefit of hard-working taxpayers, but I believe, to contort it in such a manner as to include criminals will raise unprecedented contempt for government from the American people.

As chairman of the Corporate Relations Committee of the CIA and representing 59 taxpaying, private corporations, we recognize the immediate and catastrophic effect this will have on our companies and the thousands of taxpaying workers we employ.

The benefits of working inmates are clear—reduced idleness and violence, reduced costs to taxpayers as well as the benefits in the rehabilitation of the inmate, but to consider inmates as employees with the same wages and benefits of free-world labor is wrong. Please continue your efforts in support of the taxpayer.

Sincerely,

ED COOK,
*Chairman, Corporate Relations Committee, Correctional Industries Association, Vice President, CPSI.*

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THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY, DEPARTMENT OF CORRECTION,
*Boston, MA, September 22, 1992.*

Hon. HARRY REID,
*U.S. Senate, Washington, DC.*

DEAR SENATOR REID: I would like to take this moment to strongly support Senate bill 3160. The amendment to the Fair Labor Standards Act of 1938.

The Massachusetts Department of Correction attempts to employ all inmates within our jurisdiction. This provides for healthier, safer and more secure institutions. It also gives an inmate a sense of responsibility which can prepare him/her for an easier more effective reintegration into the community. Inmate labor positions include janitorial work, paint crews, walks and grounds maintenance and inmate industries.

I would like to add that the inmate industries is not in competition with the private industries. Therefore, the enactment of this bill will not affect the private sector. If this bill is not passed the budget will far surpass any economical and safety objectives. In essence, we would be paying minimum wage for inmates to maintain their own living quarters, eating area, recreation rooms and yards.

Furthermore, the Department of Correction might be forced to lay off current Department employees in order to pay inmate wages. It would be economically detrimental to pay inmate wages in addition to the amenities currently provided (food, shelter, clothing, medical care, education and recreation programs).

Again, the Department of Correction strongly supports S3160. I thank you for the opportunity to express my opinions and concerns.

Sincerely,

LARRY E. DUBOIS,
*Commissioner.*

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MINNESOTA DEPARTMENT
OF CORRECTIONS,
*St. Paul, MN, September 18, 1992.*

Hon. HARRY REID,
*U.S. Senate, Washington, DC.*

DEAR SENATOR REID: As commissioner of the Minnesota Department of Corrections and president of the Association of State Correctional Administrators, I am writing to express my strong support for the amendment you are proposing to the Labor Appropriations bill which would amend and clarify the provisions of the Fair Labor Standards Act to exclude inmates from those provisions.

As you know, a recent decision by the U.S. District Court in Arizona brings prison inmates under the provisions of the act. Although the case is on appeal, the court's decision runs the risk of doing serious harm to our prison systems which are already seriously financially overburdened. if the act is not amended, state corrections departments may face the very real risk of having to terminate state prison employees in order to find the funds to pay inmate wages and benefits comparable to those received by citizens in the free community. I am also concerned about the creation of an employer/employee relationship between staff and inmates.

Your efforts in amending the labor Appropriations bill are very much appreciated.

Sincerely,

ORVILLE B. PUNG,
*Commissioner.*

JUNIPER VALLEY PRODUCTS,
*Colorado Springs, CO, September 24, 1992.*

Hon. HARRY REID,
*U.S. Senate, Washington, DC.*

DEAR SENATOR REID: I have reviewed a copy of your proposal to amend the Fair Labor Standard Act to ensure that inmates are not treated as employees as determined by the 9th Circuit Court for Arizona, and our office fully supports this endeavor.

I am sure that you are aware that should the decision to pay inmate workers prevailing wages become the "law of the land," we in State Government will be affected drastically in our efforts to provide training and work opportunities for inmates. As you know, there are some circumstances that offer us the opportunity to pay offenders minimum or prevailing wages. While these programs work well for those states authorized to participate, there are precious few private-sector employers willing to suffer the liabilities associated with such a program due to worker turnover, training, security, and related restrictions that must be imposed in a prison environment.

For the most part, all correctional industry programs provide products to State agencies that meet their needs at a price comparable to the prevailing market; however, the training in basic work ethics and the satisfaction of having a job while incarcerated go a long way in preventing disruptive behavior while in prison as well as preparing them for their release to society.

In addition, there are considerable cost savings to tax payers in the form of cost avoidance. We in Colorado have determined that it would cost approximately $5,000 per inmate per year to provide other training or alternate work programs for assigned inmates. When applied to the overall incarceration rate nationwide the numbers are staggering.

Your efforts to amend the FLSA to exclude inmates from coverage is greatly appreciated.

Sincerely,

TOM G. CRAGO, Ph.D.,
*Director, Correctional Industries.*

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FLOOR STATEMENT OF SENATOR RICHARD H. BRYAN, OCTOBER 2, 1992

Mr. President, in August, Senator Reid and I introduced S. 3160; a bill compelled by the Ninth Circuit Court of Appeals' June decision in Hale. This decision held that prison inmates are covered under the Fair Labor Standards Act as "employees", and thus are to be paid at the prevailing minimum wage rate. This decision is absurd. To hold that criminals, some convicted of violent crimes, some serving decades in prison are now entitled to be paid minimum wage while serving time is nonsensical.

The Fair Labor Standards Act has a detailed listing of employees exempted from the Act's minimum wage requirements. This listing has never exempted prisoners. The Hale decision requires Congress to now make such an exemption. The decision requires Congress to restore a little common sense through this legislation.

Hale has opened the gates for inmates to file lawsuits to recover minimum wage payments under FLSA for work done as an inmate in prison. The gates are also open for inmates to seek back payment of minimum wages; up to two years retroactively under the FSLA. The magnitude of Hale's ramifications is obvious.

For my state of Nevada, Hale will cost hundreds of thousand of dollars annually to pay state prisoners at minimum wages. Like many other states throughout this country, Nevada is dealing with a major budget crisis, and the painful program cuts necessitated by the reality of this situation. To add to the budgetary problems of these states by allowing the Hale decision to prevail will be disastrous. To place states in the position of also defending inmate lawsuits for retroactive payment of wages, magnifies the disaster.

As a former governor, I am particularly aware of Hale's impact. As governor, I encouraged the creation of state prison employment programs, both to ensure inmates'

working time was used productively, and that inmates developed an employable skill. I certainly did not contemplate these prison programs would result in the establishment of an "employer-employee" relationship between the prison and the inmates, and thus coverage under the Fair Labor Standards Act minimum wage provisions. As the Ninth Circuit Court of Appeals stated in its earlier 1991 *Gilbreath*, 931 F.2d 1320, decision. "* * * it is highly implausible that Congress intended the FLSA's minimum wage protection be extended to felons serving time in prison."

Our state governments are under extreme budget duress. Over 34 states have been required to revamp their budgets this year to address shortfalls. To allow Hale to stand puts all states at risk of inmate lawsuits with retroactive award potential, and at risk of state budget chaos. For many of the affected states, the result may be the termination of prison employment programs.

Hale must be rectified. We cannot expect the states to survive another round of lawsuits and retroactive awards in this economic climate. We cannot justify asking this country's taxpayers to pay prisoners a minimum wage. We do not have the money to do it. Even if we did, those funds could be better spent putting more police on patrol, rather than bringing prisoners to the wage level of working Americans.

I would like to thank Senator Edward Kennedy very much for his cooperation in agreeing to hold hearings on this issue early in the 103rd Congress. This is a problem we need to resolve as quickly as possible—before all of our states are unduly harmed by the Hale decision.

## BOSNIA AND SOMALIA

Mr. SIMON. Mr. President, periodically I submit my weekly newspaper column for publication in the CONGRESSIONAL RECORD.

Today, I would like to focus my colleagues' attention on the serious issue of donor relief—both as it applies to Bosnia and Somalia. I ask unanimous consent the article be printed in the RECORD.

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

(See exhibit 1.)

Mr. SIMON. In a related issue, as many of my colleagues know, I have spoken on this floor numerous times, pleading for attention to famine-stricken Somalia. An article in the September 29 edition of the Christian Science Monitor, quoted a Somali agricultural expert Hussein Iman, painting an incredibly miserable picture. He says "some family members are lying in their houses so weak they can't go out." He estimates that, due to the fighting, looting and drought, farmers lost 80 percent of their crops this year.

What we have seen closer to Baidoa, the epicenter of the famine—about 120 miles inland and where fighting continued well into this year—the harvest was practically nothing.

The plight of Samolia is one of the doom and despair. It will take Somalia 10 to 20 years just to rebuild the country's infrastructure

I chair the Senate Panel on African Affairs, and we have held several hearings on the situation in Somalia, and in fact, we will convene the subcommittee today to discuss this and other African developments. Whether it was Assistant Secretary of State for African Affairs Herman Cohen or the President's designee to coordinate Somali relief Andrew Natsios, we have been jolted by the triple digit deaths each day. This week we learned that a significantly higher percentage of deaths were adults.

I fear the greatest bulk are dying of disease, and the endless banditry has hampered the work of relief agencies in the interior which has slowed the transport of food to an estimated 2 million Somalis on the brink of death.

Somalia's 6 million people are on the move because of anarchy and hunger. Perhaps that is a big reason why so many of them are dying. We see, and certainly the Senator from Kansas who recently returned from the Horn of Africa will agree, relief agencies are trying to deliver food directly to villages rather than focusing on centralized aid camps. The rationale is to keep people at home rather than wasting their energies in desperate, often fruitless, searches for food. Most camps for Somalis outside their country have well-organized operations by now, but the problem is overwhelming. More than 300,000 Somalis are sheltering in Kenya, 400,000 in Ethiopia.

One out of every three Somalis are starving at home. More than 100,000 have already starved to death.

We have an obligation to humanity to stop this senseless death. We must. Hopefully this column will put our role in solving these two world crises into perspective.

EXHIBIT 1

WHAT ROLES FOR THE U.S. AND THE U.N. IN BOSNIA AND SOMALIA?

When should U.S. force be used to maintain stability around the world?

Congress and the White House wrestle with that question, knowing that if force is used, American lives may be lost—but also knowing that failure to take action also can cost loss of lives, and ultimately much greater loss of American and other lives if the resort to violence by one nation spreads to others.

One of the difficulties is that resolutions in Congress authorizing or suggesting the use of force are general.

The other day, for example, we adopted a resolution calling on the President to get action from the Security Council of the United Nations authorizing the use of force, if necessary, to get relief supplies to surrounded Bosnian cities.

But the resolution did not specify how much U.S. force would eventually be used, and the resolution did not authorize it yet.

I voted for it. I favor using air power to help relieve the tragic situation in Bosnia. I oppose the use of U.S. ground troops. The Serbian government's call for "ethnic cleansing" has a Hitleresque ring to it, and its clear-cut aggression against the people of Bosnia should be resisted

The community of nations has to do more than mouth pleasant pieties denouncing the Serbian government. We are providing a limited economic boycott and there is a small United Nations presence in Sarajevo, but the response has been anemic.

An even more tragic situation is in Somalia, where there is a clear-cut civil war. Many times the numbers of civilians being killed in Bosnia are dying of starvation in Somalia. The U.N. has authorized 500 troops to bring food to the starving nation.

How can the United States exert leadership, yet not have situations develop into a Desert Storm in which the United Nations action became overwhelmingly a United States action? (539,000 U.S. troops were in Kuwait.)

Complicating all of this is that when Congress authorizes the use of force, whether in Vietnam or Kuwait, we simply give the President the authority to use force. We do not stipulate how much force. Whether it is 1,000 troops or 500,000, we leave it to the President.

Senator Joseph Biden and I are discussing the possibility of a measure authorizing the President to use up to a specified number—perhaps 2,000 armed forces personnel—who could be used by the President if the United Nations Security Council calls for action.

Under our proposal, these would be volunteers from our armed forces, who would be made available at the discretion of the President to help get food into Somalia, or provide air cover for food and medicine going into Bosnia—or whatever situation is serious enough to warrant United Nations Security Council action.

UN Security Council measures cannot be passed if any one of five nations—including the United States—vetoes it. UN actions have not been frequent.

The Biden-Simon proposal would permit the United States to participate with a limited use of force without further authorization from Congress.

My guess is that occasional, small uses of international force will be necessary in the coming decade.

History suggests that when an empire shrinks or collapses, small wars and difficulties sometimes follow. When the British left the Indian subcontinent, it broke into two nations with significant loss of life. When the United States left the Philippines, a mini-civil war eventually erupted. And when both the Soviet and Yugoslav empires collapsed, there has been some chaos, and more can be expected.

We must strive to see that small conflicts do not grow into large wars.

The United States and other nations should assist in that, and the authorization of a limited use of force by our President, when he approves, and if requested by the United Nations, seems the best way to achieve that.

## ON CLOTURE ON THE MOTION TO PROCEED TO S. 2, THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. HATFIELD. Mr. President, earlier today the Senate defeated the motion to invoke cloture on S. 2, the Neighborhood Schools Improvement Act by vote of 59–40. As the author of one of the key amendments incorporated in the Senate version of S. 2, I was disheartened to have to cast my vote against this motion. Two weeks ago I expressed my hope on this floor,

during consideration of the fiscal year 1993 Labor, HHS, Education Appropraitons bill, that the conference agreement on S. 2 would reflect the will of the Senate on eduction flexibility. Unfortunately, the final outcome failed to satisfy this test.

Last January the Senate voted 95–0 to support the concept of education flexibility as an amendment to S. 2. As the sponsor of this legislative effort, I was pleased with the overwhelming endorsement of my colleagues to give States and local school districts the freedom to use Federal funds in the most effective ways possible. On a bipartisan basis, we joined together to support the thousands of quality educators across the country in their efforts to reduce the Federal regulatory burden in order to proceed with the important task of educating our young people.

The goal of the Senate ed-flex provision was to allow 50 local, education agencies in 6 States the opportunity to experiment with Federal flexibility on a limited basis. School districts, including both elementary and secondary schools, could apply for regulatory waivers in the following programs: chapter 1, chapter 2, the Dwight D. Eisenhower Mathematics and Science Education Act, the Follow Through Act, sections of the Stewart B. McKinney Homeless Assistance Act and the Carl D. Perkins Vocational and Applied Technology Act. Civil rights protections would not be waived under any circumstances, not would the flexibility waivers impact Federal funding allocations to these critical programs. In exchange for a loosening of the Federal regulations, educators would be carefully monitored and required to demonstrate edcuational achievement through out the duration of the waiver period.

The House also incorporated educational flexibility into their companion legislation on this matter. However, their demonstration program was limited to a total of 300 schools nationwide and mandated the creation of local reform committees to oversee the flexibility program. The House also included a limitation on the program restricting waivers only to those institutions which are affiliated with chapter 1. While most elementary schools do participate in the chapter 1 program, the majority of the Nation's secondary schools do not. Unfortunately, the House provision remained in the final version of the conference report, thereby limiting a small demonstration program even further by restricting the waiver authorization to solely chapter 1 institutions. In my State of Oregon alone, only 13 percent of chapter 1 students are enrolled in secondary schools. This limitation substantially reduced our ability to have a well-rounded demonstration opportunity in flexibility.

At this point, Mr. President, I would ask that a list of the percentage of students in chapter 1 programs in secondary schools across the Nation be included in the RECORD. I urge my colleagues to evaluate the impact of this limitation in their own States. Nationally, only 9 percent of chapter 1 students are in secondary schools.

I ask unanimous consent the material be printed in the RECORD.

(See exhibit 1).

Mr. HATFIELD. The intention of any flexibility effort is to lessen the regulatory burden on schools and teachers by allowing certain regulations to be waived which may be impeding real education reform. In return for this flexibility, the Government requires accountability to ensure that Federal dollars are spent as wisely as possible. In essence, the conference agreement is interested in assuring that Federal funds are spent as wisely as possible, but only in programs which effect the disadvantaged. I believe the promise of flexibility includes the disadvantaged, but goes far beyond to include all children affected by elementary and secondary education programs. My amendment to S. 2 was designed as a compliment to deregulation efforts already in place in many States across this country. Today's conference agreement takes us a step backward from the amendment supported in this body by 94 of my colleagues.

As I noted a few weeks ago, I am pleased that the Senate is moving forward on educational flexibility on other fronts. Recently, the Senate Appropriations Committee included language regarding "ed-flex" in H.R. 5620, the supplemental appropriations bill providing disaster relief assistance to parts of the country devastated by recent disasters. Specific provisions were included in that act to allow the Secretary of Education to waive Federal regulations in a variety of education programs in those areas substantially affected by Hurricane Andrew, Hurricane Iniki and Typhoon Omar. While these provisions are limited in application, I believe they will provide significant relief to school officials working to rebuild their educational institutions.

Furthermore, in the fiscal year 1993 Labor, HHS, Education appropriations bill, the Senate Appropriations Committee included report language indicating our support for authorization efforts to enact "ed-flex". The committee has directed the Secretary of Education to report on State initiatives in this area before the fiscal year 1994 appropriations hearings.

Many States throughout the country have joined Oregon and already acted to deregulate education programs in order to permit more time to be spent in the classroom rather than on complying with costly paperwork burdens. Many of the educators in my State—Norma Paulus and the Oregon Department of Education, the Confederation of Oregon School Administrators, the Oregon Education Association—were hopeful that S. 2 would signal the beginning of a commitment from the Federal Government to support State efforts to reduce Federal regulatory oversight complications. Furthermore, many of my colleagues on the Senate Labor Committee—particularly Senators KASSEBAUM, KENNEDY, HATCH, and PELL, and the Secretary of Education as well, were supportive of flexibility efforts. Unfortunately, the final conference agreement did not reflect our collective efforts over the past few months.

Therefore, I will look to the 103d Congress for the opportunity to make substantial strides in education flexibility. I intend to introduce legislation early in the 103d Congress proposing broad Federal educational flexibility. I am confident that the unanimous support of this Senate for the flexibility concept will prevail in the 103d Congress and we will see education flexibility realized for the thousands of educators across this country who believe in the promise it holds.

EXHIBIT 1

Chapter 1 1989–90 Data

| State | Total grades 9–12 | Percent grades 9–12 | Total students |
|---|---|---|---|
| Alabama | 3,979 | 3 | 130,028 |
| Alaska | 311 | 5 | 5,760 |
| Arizona | 8,842 | 13 | 69,570 |
| Arkansas | 3,021 | 4 | 67,223 |
| California | 179,783 | 16 | 1,140,074 |
| Colorado | 3,361 | 9 | 37,516 |
| Connecticut | 6,017 | 12 | 49,174 |
| Delaware | 190 | 2 | 10,416 |
| District of Columbia | 967 | 7 | 12,922 |
| Florida | 4,401 | 3 | 172,290 |
| Georgia | 4,815 | 3 | 142,527 |
| Hawaii | 1,152 | 8 | 14,966 |
| Idaho | 1,981 | 8 | 23,741 |
| Illinois | 20,010 | 13 | 155,369 |
| Indiana | 4,496 | 5 | 96,963 |
| Iowa | 1,012 | 3 | 39,436 |
| Kansas | 2,022 | 6 | 35,505 |
| Kentucky | 5,111 | 5 | 99,675 |
| Louisiana | 1,277 | 1 | 102,437 |
| Maine | 534 | 2 | 25,597 |
| Maryland | 558 | 1 | 67,923 |
| Massachusetts | 7,181 | 10 | 75,350 |
| Michigan | 6,660 | 5 | 143,270 |
| Minnesota | 1,385 | 2 | 64,329 |
| Mississippi | 12,812 | 10 | 123,634 |
| Missouri | 860 | 1 | 72,345 |
| Montana | 3,395 | 24 | 14,072 |
| Nebraska | 1,865 | 7 | 28,565 |
| Nevada | 433 | 4 | 9,861 |
| New Hampshire | 720 | 6 | 12,483 |
| New Jersey | 23,609 | 14 | 174,868 |
| New Mexico | 2,800 | 8 | 34,092 |
| New York | 60,797 | 17 | 363,587 |
| North Carolina | 7,142 | 6 | 114,687 |
| North Dakota | 621 | 6 | 10,192 |
| Ohio | 2,344 | 2 | 138,027 |
| Oklahoma | 2,779 | 5 | 59,072 |
| Oregon | 6,230 | 13 | 46,255 |
| Pennsylvania | 21,387 | 10 | 217,618 |
| Rhode Island | 1,236 | 8 | 14,571 |
| South Carolina | 4,009 | 7 | 57,803 |
| South Dakota | 583 | 4 | 14,564 |
| Tennessee | 1,521 | 1 | 107,734 |
| Texas | 20,153 | 5 | 417,601 |
| Utah | 999 | 3 | 29,418 |
| Vermont | 515 | 5 | 10,063 |
| Virginia | 509 | 1 | 70,485 |
| Washington | 4,847 | 8 | 62,132 |
| West Virginia | 412 | 1 | 33,087 |
| Wisconsin | 7,036 | 10 | 69,602 |
| Wyoming | 270 | 6 | 4,877 |
| Puerto Rico | 19,840 | 9 | 210,483 |
| Bureau of Indian Affairs | 4,055 | 25 | 15,998 |
| Nation | 482,845 | 9 | 5,327,837 |

IN SUPPORT OF S. 2575, THE VETERANS HEALTH PROGRAMS IMPROVEMENT ACT OF 1992

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to join with committee chairman, Senator CRANSTON, in support of the Veterans Health Program Improvement Act of 1992. This bill makes meaningful and essential changes which ensure quality of health care that our Nation's veterans deserve.

As reported by the committee, this bill has seven titles which address issues of concern to veterans and the health system that serves their needs. It improves nurses' pay, heightens awareness of preventive health services, corrects inequities in the State veterans homes, and enhances the health care needs of the rural veteran population. It also establishes demonstration programs for veterans to obtain better access to telephone services within the VA medical centers. In addition, the bill addresses the escalating prices of prescription drugs purchased by VA and deals with several expiring VA authorities.

NURSE PAY AMENDMENTS

Title I contains provisions to address concerns and problems in implementing the Department of Veterans Affairs Nurse Pay Act of 1990, Public Law 101-366. That act was designed to help VA overcome difficulties in the recruitment and retention of nurses within the VA health care system by making salaries competitive with the private sector by requiring VA to establish a locality pay system covering registered nurses and certified registered nurse anesthetists.

Mr. President, it is critical to the quality of VA health care that professional nurses receive fair wages in today's competitive health care market. Many VA nurses have suffered salary inequities during the past year and have waited patiently for their recommendations to be heard. Title I addresses their concerns to ensure that veterans receive the benefit of the highest quality of nursing care.

PREVENTIVE HEALTH CARE

Title II of S. 2575 focuses on the provision of preventive health care services within VA. Originally introduced as S. 2740, this section would serve to elevate the status and priority placed upon preventive health services in the overall package of comprehensive health care services VA provides.

Mr. President, I continue to support efforts to improve preventive health services both within and outside the veterans health care system. Title II takes an appropriate step in that direction.

STATE VETERANS HOMES FACILITIES

Title III contains provisions which would correct an inequitable situation that exists under current law with respect to veterans in State veterans homes who receive needs-based pension and who participate in compensated work therapy [CWT] or incentive therapy [IT] programs. This title of the bill would clarify that a veteran's participation in a State home incentive therapy or Compensated Work Therapy Program would affect neither the veteran's eligibility for pension, nor its amount.

RURAL HEALTH CARE CLINICS

Title IV of the bill would require VA to furnish health care services in geographically remote areas by utilizing a variety of modes of health care delivery. This title allows for great flexibility in determining the appropriate means of providing access to health care for rural veterans, and I am pleased to support its adoption.

Mr. President, it is worth noting that the mobile clinics scheduled for delivery this September pursuant to the Mobile Clinic Pilot Program established in Public Law 100-322 were quickly put to the test to help out victims of Hurricane Andrew in Florida recently. Three fully staffed VA mobile clinics were flown and driven to the site of the disaster in south Florida to provide onsite, mobile health care to victims of the hurricane. I commend the VA employees who participated in this mission.

TELEPHONE USE DEMONSTRATION PROJECT

Title V of the bill would require VA to establish demonstration projects in the VA medical centers in Philadelphia and Tucson to determine the feasibility of bedside telephone installations in patient rooms throughout the VA system of 171 medical centers.

The time has come for VA to provide, on a system-wide basis, the same sort of telephone service—bedside service—that has become the norm in most hospitals. VA shares that goal. Nonetheless, I am informed that a number of technical and cost issues must be addressed before VA can proceed. Therefore, this bill directs VA to install bedside telephones in the VA medical centers in Philadelphia and Tucson as demonstration projects in order to assess those issues. Once such assessments have been completed, VA will then be in a better position to determine how it will proceed on a nationwide basis.

PRICES FOR DRUGS AND BIOLOGICALS

Title VI of the bill addresses the current crisis in VA's drug costs by establishing a set of limits on the prices VA and other Federal entities will pay for drugs and biologicals. While I applaud the hard work that went into this compromise crafted by Senators CRANSTON, MURKOWSKI, ROCKEFELLER, and SIMPSON, I am, frankly, troubled by the fact that this provision was not subject to the normal hearing process due such an important measure, and I am withholding an objection with some reservation. Nevertheless, having had an opportunity to study title VI, it is my judgment that it represents a meaningful way in which to deal with the problems our veterans face because of increased drug prices, and I am consenting to it because of the urgent need for action on this important subject.

There is no doubt, Mr. President, that VA drug prices have increased dramatically over the past few years. In Pennsylvania alone, VA hospital directors reported shortfalls in fiscal year 1991 totaling nearly $2 million in their pharmacy budgets which they attributed to price increases. Those shortfalls have resulted in cutbacks both in the veterans who can be treated as well as in important maintenance programs.

Title VI is one step in dealing with that problem.

Under title VI of the bill, the prices VA pays for most of its drugs would be limited to 76 percent of what wholesalers pay for the same drugs. Because VA has historically enjoyed deep discounts on its pharmaceuticals, and because of the vital mission of our veterans health care system, I believe such a discount is entirely appropriate. The bill would also authorize the Secretary to establish buying groups within the Federal sector, termed unified pharmaceutical award contracts, or "UPAC's." In order to determine the worth of UPAC's, the authorization would be limited to a demonstration program which would end in 1997. Mandatory discounts and buying smart are, in my view, two excellent means for getting a handle on VA drug prices.

There is, however, a second step required. I know that at least part of the escalation in VA's drug prices can be attributed to the Medicaid rebate provisions of the Omnibus Budget Reconciliation Act of 1990 [OBRA 90]. Those provisions require rebates to Medicaid purchasers which are computed by reference to the lowest prices negotiated by any purchaser, including VA. The rebate provisions have contributed to this problem by creating a disincentive for drug companies to continue to offer large discounts to VA. I am pleased that the Committee on Finance, led by Senators BENSTEN and PACKWOOD, included a provision in H.R. 11, which the Senate recently passed, which would exempt VA prices from the so-called best price calculation. That is a vital and necessary second step in the process which I was pleased to support.

Title VI is critical to the continued viability of our veterans health care system, and I urge my colleagues to support it.

EXPIRING AUTHORITIES

Finally, Mr. President, title VII of the bill will extend, or make permanent, certain statutory authorities applicable to the VA which have expired in the recent past. I support these measures.

Mr. President a great amount of time and labor went into the committee bill. I would like to thank Janet Coffman, Susan Thaul, Bill Brew, and Ed Scott of the committee's majority staff and Carrie Gavora, Yvonne Santa Anna, Bill Tuerk, Charlie Battaglia, and Tom Roberts of my staff.

Mr. President, no issue has higher priority with me than ensuring the highest quality of care within the VA health care system. The Veterans Health Programs Improvement Act of 1992 takes vital steps in securing this objective.

I urge my colleagues to support this important measure.

## EEOC TECHNICAL ASSISTANCE AND TRAINING BILL

Mr. EXON. Mr. President, I ask unanimous consent that the Labor Committee be discharged in further consideration of H.R. 5925, the EEOC technical assistance and training bill; that the Senate proceed to its consideration; that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements thereon appear in the RECORD at the appropriate place, as though read.

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

So the bill (H.R. 5925) was deemed read a third time, and passed.

Mr. METZENBAUM. The EEOC Education, Technical Assistance, and Training Revolving Fund Act of 1992 provides for a one-time transfer of $1 million from EEOC's existing appropriation for salaries and expenses to a new technical assistance revolving fund, under which the EEOC may charge fees for education, technical assistance, and training. Once established, the fund would be self-sustaining.

The Technical Assistance Revolving Fund is a creative, deficit-neutral approach to ensure that the EEOC has the ability to provide technical assistance to the employers and individuals who are affected by the laws which are administered by the agency. The money for the fund has already been appropriated through the Commerce, State, and Justice Departments appropriations process. The transfer effected by this legislation is necessary to make that money available for use in creating the fund.

The bill requires that fees could be charged only for specified services, that such fees would be charged on a uniform basis for persons receiving such services, that the fees would not exceed the costs of providing such services, and that with respect to each person receiving such services, the fees would bear a reasonable relationship to the cost of providing such services.

Notably, the EEOC will continue to provide technical assistance at no charge in accordance with its legislative mandate and the availability of appropriated funds. For example, the EEOC will not charge fees to individuals seeking single copies of materials containing basic information about their rights. I ask unanimous consent that a letter from EEOC Chairman Evan Kemp which confirms this commitment be printed in the RECORD.

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

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
*Washington, DC, October 1, 1992.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Washington, DC.*

DEAR SENATOR KENNEDY: This is in regard to the Technical Assistance Revolving Fund legislation, H.R. 5925, which is pending in the Labor and Human Resources Committee.

Under existing law, the EEOC currently provides education, technical assistance and training through appropriated funds. These activities are provided to the public at no cost.

As a result of the Civil Rights Act of 1991 and the Americans with Disabilities Act, the EEOC anticipates a 20 to 30 percent increase in charges to process. A workload increase of that magnitude will strain the agency's resources, making it impossible for the EEOC to expand or even to continue the current level of outreach activities.

The Revolving Fund will give the EEOC the ability to charge reasonable fees to particular audiences for certain specialized products and services relating to all of the laws under the EEOC's jurisdiction. The Revolving Fund will help to reduce the demand on appropriated funds, thereby permitting the EEOC to continue and to expand its current free education, technical assistance and training activities.

The Revolving Fund will in no way reduce the EEOC's commitment or legal responsibility to provide free technical assistance and training. On the contrary, it will permit us to increase our outreach efforts.

The EEOC will continue to offer education, technical assistance and training to the general public at no cost. It is our intention that no one will be denied access to these products and services because of lack of ability to pay.

I hope you and the other members of the Senate will support H.R. 5925. Its passage is vital to our ability to inform people of their rights under the law and to educate employers about their responsibilities.

Attached is a list of products and services which the EEOC provides to the public at no cost.

Sincerely,

EVAN J. KEMP, Jr.,
*Chairman.*

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EDUCATION, TECHNICAL ASSISTANCE AND TRAINING SERVICES PROVIDED BY THE EEOC AT NO COST TO THE PUBLIC

1. Written education/technical assistance materials in FY 1992.

More than two million public information pieces were distributed to the public.

18 new pieces were made available in English, Spanish, Creole and Mandarin Chinese (also understood by Vietnamese-speaking individuals).

34 ADA-related publications were put into alternate formats: Braille, tape, large print and disc.

2. New educational/technical assistance materials (full listing attached.)

3. New Publications Distribution System (project description attached.)

4. Outward bound transfer capability of toll-free telephone service automatically transfers the caller to the nearest EEOC field office (14,000 to 22,000 calls per month).

5. Speakers Bureau—Approximately 100 professional staff members are available upon request to speak to audiences about the laws under the EEOC's jurisdiction.

6. Field office outreach.

Six field offices have each established one program analyst position for a pilot program of outreach to underserved populations.

In the first, second and third quarters of FY 1992, 1749 field staff members made presentations to approximately 125,000 individuals, including members of civil rights groups, advocacy groups, educational institutions, trade associations and businesses.

Expanded presence—outreach activities focus on geographical areas with a history of low charge numbers.

7. Technical assistance is available to individuals and groups from the Office of Legal Counsel.

8. Attorney-of-the-day—Staff members in the office of Legal Counsel are available on a rotating basis to assist with technical assistance questions from field office staff.

9. The Office of Communications and Legislative Affairs provides information, both written and verbal, to Congress, the public, and print and electronic media.

Mr. METZENBAUM. This legislation will help the EEOC accomplish its enforcement responsibilities under the Civil Rights Acts of 1964 and 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and other civil rights legislation within its jurisdiction. Compliance begins with understanding the law. My hope is that as a result of the increased education, training, and technical assistance made possible through this legislation, employers will be better informed of their legal obligations, and compliance with these laws will be improved.

## THE SCIENTIFIC AND ADVANCED TECHNOLOGY ACT

Mr. EXON. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 1146, a bill to establish an advanced technician program, 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. 1146) to establish a national advanced technician training program, utilizing the resources of the Nation's two-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in intenational trade, 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.

AMENDMENT NO. 3390

(Purpose: To establish programs at the National Science Foundation to strengthen and improve the scientific and technical education capabilities of associate-degree-granting institutions, and for other purposes)

Mr. EXON. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Ms. MIKULSKI, for herself and Mr. COCHRAN, proposes an amendment numbered 3390.

Mr. EXON. 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:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Scientific and Advanced-Technology Act of 1992".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the workforce of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathematics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

**SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.**

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall award grants to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields. The grant program shall place emphasis on the needs of students who have been in the workforce (including work in the home), and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development of model instructional programs in advanced-technology fields;

(2) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities, and

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall award grants for the establishment of centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional instructional programs in advanced-technology fields.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic region served by the center.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this paragraph shall, at a minimum—

(i) counsel students, including students who have been in the workforce (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (f)(3).

(C) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) FUNCTIONS OF THE DIRECTOR.—In carrying out this Act, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distibution of grant awards;

(3) ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (c)(2) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;

(4) establish and maintain a readily accessible inventory of the programs assisted under this Act; and

(5) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(g) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as

the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

**SEC. 4. ADMINISTRATIVE AMENDMENT.**

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

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

The amendment (No. 3390) was agreed to.

Ms. MIKULSKI. Mr. President, I rise today to urge my colleagues to support S. 1146, the Scientific and Advanced Technology Act.

We are in a war for America's future. And winning that war depends on having jobs today and jobs tomorrow. Jobs for the nineties and jobs for the 21st century. And we must have a work force that is job-ready for a high-tech future.

This bill will help students get ready to compete in the global marketplace. This is particularly true in the fast-changing fields of science and technology.

Yet in a time of increasing demand for science and technology, study after study has shown that we are falling behind in training students in science, math, and technology.

We are facing a critical shortage of young people who are capable and willing to major in science and engineering.

In addition, more women and minorities than ever before are entering the work force.

One study found that by the year 2000, about a quarter of all jobs as we know them today will disappear—these are current jobs that do not require a high school diploma.

And the new jobs that will take their place will be different. They will require more scientific training and more advanced technical skills.

These new jobs are not all going to Ph.D. scientists—they are going to skilled technicians who will be the backbone of our scientific and technical infrastructure.

Mr. President, the efforts of Government, private industry, and our associate-degree colleges will all be needed to address this critical need.

This bill addresses this challenge. It authorizes the National Science Foundation to expand and improve advanced technician training programs in associates-degree-granting colleges.

Mr. President, my bill does this through three very important competitive grant programs—and these are not designed to be Government giveaways, associates degree colleges must match funds in either in-kind contributions or other funding.

The first competitive grants program involves grants to associates-degree colleges to provide technical training and education in advanced technology fields.

Awardees will enter into innovative private industry or local government partnerships, improve faculty competence in advanced technology fields, or upgrade laboratory instruments.

This is important because associate-degree-granting colleges are in a unique position to work with local industry.

They can return workers, meet the needs of industry, and create jobs for local people who may need training or retraining.

But they cannot do this without the right equipment and faculty. If the tools of education aren't state-of-the-art, how can education be state-of-the-art?

In my own State of Maryland, Dundalk, Community College has been working with private industry to meet their training needs, but had to turn away one large company in need of advanced technology training for its employees because it did not have the facilities.

The second kind of grant strengthens the relationships between associate-degree colleges and secondary schools. It is designed to improve the teaching of math and science at the high school level.

It also has another important benefit. A stronger relationship between colleges and high schools will help students to focus on their future, give them direction and help them set goals to get there. This vision is important. Some students cannot see themselves going on to a 4-year college or university, but could see themselves becoming highly skilled technicians.

The third kind of grant strengthens the relationships between 2-year and 4-year colleges.

As college costs continue to grow, more and more students start out at local 2-year schools.

Among minorities, in particular, as many as half of students who go on after high school begin at 2-year schools.

Strengthening partnerships between 2-year and 4-year schools will help students move between schools and will increase the numbers of bachelors degrees in math, science and engineering.

Mr. President, my bill does one more important thing. It directs the National Science Foundation to establish, on a competitive basis, up to 10 centers of scientific and technical education. These centers will be located at institutions that are already recognized for their excellence. The centers will serve as national clearinghouses for education and training programs.

Mr. President, we must not close our eyes to the looming shortage of skilled scientific and technical workers.

We must better prepare for this technologically advanced competitive global economy.

This bill is an important step in developing the skills needed for technological industry.

I urge my colleagues to join me in this effort to develop our technological skills infrastructure and to prepare our work force for the future.

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 be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1146

*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 "Scientific and Advanced-Technology Act of 1992".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the workforce of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathematics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

**SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.**

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall award grants to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields. The grant program shall place emphasis on the needs of students who have been in the workforce (including work in the home), and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development of model instructional programs in advanced-technology fields;

(2) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities, and

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall award grants for the establishment of centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional instructional programs in advanced-technology fields.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic region served by the center.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this paragraph shall, at a minimum—

(i) counsel students, including students who have been in the workforce (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (f)(3).

(C) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) FUNCTIONS OF THE DIRECTOR.—In carrying out this Act, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distibution of grant awards;

(3) ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (c)(2) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;

(4) establish and maintain a readily accessible inventory of the programs assisted under this Act; and

(5) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(g) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

**SEC. 4. ADMINISTRATIVE AMENDMENT.**

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and sup-

port access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

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

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

The motion to lay on the table was agreed to.

## NATIONAL INDIAN POLICY RESEARCH INSTITUTE ACT

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 755, S. 3155, a bill to establish the National Indian Policy Research Institute.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3155) to establish the National Indian Policy Research Institute.

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 Select Committee on Indian Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

*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 Indian Policy Research Institute Act".

**SEC. 2. FINDINGS.**

(a) FINDINGS OF CONGRESS.—The Congress finds that:

(1) The policy of the United States toward Indian and Alaska Native tribes which has emerged over the course of 200 years of relationships is based upon the following fundamental principles:

(A) the United States has a trust responsibility to protect, maintain, and manage Indian lands and related natural resources, including water, fisheries, game and game habitat, and to preserve permanent homelands for native people within this Nation;

(B) tribal rights of self-government are recognized under the United States Constitution and numerous treaties, intergovernmental agreements, statutes and Executive orders, and have been consistently upheld by the highest courts of the United States;

(C) the goals of economic self-sufficiency and improvement of the social well-being of tribal communities, with the objective of achieving parity with the general United States population as evidenced by national averages for health care, per capita income and rates of employment and educational achievement, are recognized as the basis of numerous Federal statutes and administrative policies;

(D) the unique cultural heritage of tribal people in the United States, including maintenance of native language proficiency, the practice of traditional ceremonies, and religious and artistic expression, is recognized in numerous Acts of Congress as an irreplaceable national heritage to be supported and protected; and

(E) for nearly two decades, the United States has consistently endorsed and advanced the principle of Indian self-determination, with the objective of ending Federal domination of programs affecting Indians and ensuring that tribal governments are empowered to plan, conduct, and administer such programs themselves.

(2) Despite broad agreement on the underlying principles of United States Indian policy, laws enacted by the Congress and regulations adopted by Federal agencies do not invariably reflect such principles owing to the large number of executive branch agencies and the large number of congressional committees determining policy and owing to the absence of an institutional resource from which agencies and congressional committees might obtain objective and reliable data, information, and analyses based upon the fullest knowledge of the underlying policy principles.

(3) Performance of its trust responsibility to American Indians consistent with the highest fiduciary standards requires the United States to assure that informed and reliable information and scholarly analyses are available to institutions shaping public policy.

*(4) Federal Indian policy impacts the lives and property of all American citizens, Indian and non-Indian, living on or near reservations throughout Indian country.*

**[**(4)**]** *(5)* Establishment of an independent, nonpartisan, institute to provide data, information, and analyses related to Indian issues would assist institutions in shaping sound and consistent public policy and its establishment is warranted.

**[**(5)**]** *(6)* The establishment of an institute is not intended, nor should it be construed as, a delegation of the responsibilities of the United States in formulating and adopting public policy.

**SEC. 3. DEFINITIONS.**

For purposes of this Act:

(1) The term "Indian" means any person who is a member of an Indian tribe.

(2) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians including any Alaska Native village which is recognized by the United States as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "Institute" means the National Indian Policy Research Institute established by this Act.

(4) The term "Board" means the Board of Directors of the Institute.

(5) The term "president" means the president of the George Washington University located in Washington, District of Columbia.

**SEC. 4. ESTABLISHMENT OF INSTITUTE.**

(a) IN GENERAL.—There is established a federally chartered corporation to be known as the "National Indian Policy Research Institute" which shall be located in Washington, District of Columbia, and, with the consent of George Washington University, as indicated by the acceptance by it of the grant authorized under section 12 of this Act, within the George Washington University for purposes of administration and management. For purposes of policy and direction, the Institute shall be under the control of the Board of Directors established under section 7 of this Act.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The Federal corporation established by this Act shall have succession, subject to the review provided for in subsection (c), until dissolved by Act of Congress. The Congress shall have exclusive authority to revise or amend the provisions of this Act involving the establishment and operation of such corporation.

(c) REVIEW.—No later than **[**36**]** *60* months after enactment of this Act, the Congress shall review the activities and performance of the Institute and of George Washington University in support of the Institute's purposes to determine whether amendments to this Act are required.

**SEC. 5. FUNCTIONS.**

(a) RESEARCH AND ANALYSIS.—The Institute shall, at the request of institutions shaping policies affecting Indians or upon its own initiative, conduct or commission research and analysis to be carried out, in accordance with the highest standards of scholarship and independence, on issues related to the development of public policy affecting Indians. The Institute shall adopt criteria and procedures to guide the selection of research projects. Priority consideration shall be given to policy initiatives proposed for consideration by the executive or legislative branches of the Federal Government. *In conducting or commissioning research and analysis on issues relating to the development of public policy affecting Indians, the Institute shall ensure that such research shall consider all factors affecting Indian policy including the impact of such policy upon other Americans.*

(b) DATA AND INFORMATION CLEARINGHOUSE.—The Institute shall establish a data base to make accessible information and data maintained by Government agencies, academic institutions, and Indian and other organizations, and shall develop computer and telecommunication networks to make such information recoverable by policymakers and the public. Where it is determined that developing a new and specific data base is required, the Institute shall undertake to meet such need.

(c) FORUMS AND SYMPOSIA.—The Institute shall conduct periodic public forums to identify and explore emerging Indian policy issues and to identify needs for data, information, or analyses, and shall conduct symposia, when appropriate, to clarify options for policymakers and to advance an understanding of complex and interrelated public policy issues as they affect Indian people and the formulation of Indian policy.

(d) PUBLIC INFORMATION.—*(1)* The Institute shall publish and make available to the executive and legislative branches of the Federal Government, tribal governments, tribal colleges, and the public, the products of its research and reports of other activities by disseminating information about such research and reports as deemed appropriate by the Board.

*(2) Nothing in paragraph (1) or any other provision of this Act shall be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by such tribal government to the Institute under this Act.*

(e) FELLOWSHIPS.—The Institute shall, consistent with the availability of funds, and resources and procedures established by the Board of Directors, provide fellowship opportunities for students of Indian policy at tribal colleges and other institutions of higher education and experienced policy experts in order to make it possible for such fellows to dedicate their time and energies to researching significant public policy issues.

**SEC. 6. GENERAL POWERS OF INSTITUTE.**

(a) POWERS OF INSTITUTE.—In carrying out the provisions of this Act, the Institute shall have the power, consistent with the provisions of this Act—

(1) to adopt, use and alter a corporate seal;

(2) to make, subject to the availability of funds, agreements and contracts with persons, Indian tribal governments, tribal organizations, and private or governmental entities, and to make payments or advance payments under such agreements or contracts without regard to the provisions of section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the Federal agency concerned and on a reimbursable basis, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the Federal Government in carrying out the provisions of this Act, and to pay for such use;

(6) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(7) to receive grants from, and subject to the availability of funds, enter into contracts and other arrangements with Federal, State, tribal, or local governments, public and private agencies, organizations, institutions, and [individuals, and, at the request of a tribal government or tribal governments, to receive grants and contracts from Federal agencies on the same basis as a tribal organization as defined and provided for by the Indian Self-Determination and Education Assistance Act] *individuals*;

(8) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Institute to carry out the provisions of this Act;

(9) to obtain insurance or make other provisions against losses;

(10) to use any funds or property received by the Institute to carry out the purpose of this Act except that any funds received by, or under the control of the Institute that are not Federal funds shall be accounted for separately from Federal funds; and

(11) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this Act and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

**SEC. 7. BOARD OF DIRECTORS.**

(a) COMPOSITION.—

(1) The Board of Directors of the Institute shall consist of the following members:

(A) [Six] *Seven* individuals appointed within 12 months following the date of enactment of this Act by the President pro tempore of the Senate and [6] *7* individuals appointed within the same period by the Speaker of the House of Representatives, who are representative of a broad range of Indian policy expertise as evidenced by established credentials in the different disciplines which make up the diverse field of Indian policy, including degrees from recognized academic institutions, leadership in public policymaking positions, or affiliation with public and private institutions which are known for their significant contributions to the public interest. The President pro tempore shall appoint from a list of persons submitted by the chairman of the Select Committee on Indian Affairs, and the Speaker shall appoint from a list of persons submitted by the chairman of the Interior and Insular Affairs Committee.

*(B) Two individuals appointed by the president of George Washington University within 12 months following the date of the enactment of this Act from among the faculty, officers, or employees of George Washington University. Members appointed pursuant to this subparagraph shall serve at the pleasure of the president.*

[(B)] *(C)* The president of George Washington University, or his or her designee, and the Director of the Institute, both of whom shall serve as ex officio voting members of the Board.

(2) In making appointments under subsection [(a)(1)] *(a)(1)(A)*, the appointing authorities shall—

(A) consult with Indian tribal governments and tribal organizations;

(B) solicit nominations from Indian public policy specialists, Indian tribal governments, tribal colleges, other Indian organizations, academic institutions and public officials with Indian policy responsibilities; and

(C) ensure that a majority of appointments are Indians who are broadly representative of Indian country.

(b) INTERIM BOARD.—The Planning Committee, appointed by the president of George Washington University to assist with the feasibility study for the establishment of a National Center for Native American Studies and Indian Policy Development, as authorized by section 11 of Public Law 101-301, and composed of those individuals serving at the time of enactment of this Act, shall serve as the interim Board until the appointments authorized in subsection (a)(1) have been made. Their service shall terminate on the date that all [12 members are appointed.] *members authorized to be appointed under subparagraphs (A) and (B) of paragraph (1) of subsection (a) are appointed.*

(c) TERMS OF OFFICE.—

(1) Except as otherwise provided in this section, members of the Board of Directors appointed pursuant to subsection (a)(1)(A) shall be appointed for terms of office of 3 years.

(2) Of the members first appointed under subsection (a)(1)(A) of this section—

(A) [4] *5* shall have a term of office of 12 months;

(B) [4] *5* shall have a term of office of 24 months; and

(C) 4 shall have a term of office of 36 months.

(3) The term of office assigned to each of the initial members of the Board as provided under paragraph (2) shall be determined by the appointing authorities at the time of appointment, except that no member shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(d) VACANCIES.—Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term.

(e) REMOVAL.—No member of the Board appointed pursuant to subsection (a)(1)(A) of this section may be removed during the term of office of such member except for just and sufficient cause. However, absence from 3 consecutive meetings shall be considered just and sufficient cause.

(f) POWERS OF BOARD.—The Board is authorized to—

(1) formulate policy for the Institute and provide direction for its management, in consultation with George Washington University; and

(2) make such bylaws and rules as it deems necessary for the administration of its functions under this Act, including the organization and operating procedures of the Board.

(g) OFFICERS AND EXECUTIVE COMMITTEE.—The Board shall select from among its members an executive committee to be comprised of a co-chair selected by the Board to serve with a co-chair designated by George Washington University, and a vice chair, secretary, treasurer, and one at-large member selected by the Board. In accordance with the bylaws of the Board, such members shall provide direction for the Board, and serve in lieu of the Board on matters requiring Board action, subject to review and action by the Board as the members of the Board may deem appropriate.

(h) COMMITTEES.—The Board may establish such committees, task forces, and working groups as it deems appropriate and necessary.

(i) COMPENSATION.—Members of the Board appointed under subsection (a)(1)(A) shall, for each day they are engaged in the performance of their duties, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular place of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

**SEC. 8. RESOURCE ADVISORY COUNCIL.**

(a) RESOURCE ADVISORY COUNCIL.—There is established the Resource Advisory Council to the National Indian Policy Research Institute (hereafter referred to as the "Council") which shall provide assistance in the development and operations of the Institute.

(b) COMPOSITION.—The membership of the Council is as follows:

(1) Secretary of Health and Human Services;

(2) Secretary of the Interior;

(3) Secretary of Education;

(4) Secretary, Smithsonian Institution;

(5) Secretary of Commerce;

(6) Secretary of Labor;

(7) Administrator of the Environmental Protection Agency;

(8) Director, National Academy of Sciences;

(9) Librarian of Congress;

(10) Director, Office of Technology Assessment

(11) Director, National Institutes of Health;

(12) Chairman, Select Committee on Indian Affairs, United States Senate; and

(13) Chairman, Interior and Insular Affairs Committee, United States House of Representatives.

(c) FUNCTIONS.—The Council—

(1) shall make recommendations to the Board of Directors regarding research procedures and organizational development;

(2) shall provide professional and technical assistance upon request of the Board of Directors, including staff support for the activities of the Council;

(3) when biannual meetings are called by the chairmen of the Senate Select Commit-

tee on Indian Affairs and the Committee on Interior and Insular Affairs of the House of Representatives, shall attend such meetings or shall designate an individual or individuals to attend on behalf of the Council; and

(4) shall make reports and recommendations to the Board of Directors and to the Congress as they may from time to time request, or as the Council may consider necessary to more effectively accomplish the purposes of this Act.

**SEC. 9. OFFICERS AND EMPLOYEES.**

(a) DIRECTOR.—The Board of Directors, with the concurrence of the president, shall appoint a Director of the Institute. The Director may only be removed from office by the Board in accordance with the bylaws of the Institute.

(b) RESPONSIBILITY OF DIRECTOR.—Subject to the direction of the Board, and the general supervision of the president, the Director shall have the responsibility for carrying out the policies and functions of the Institute, and shall have authority over all personnel and activities of the Institute.

(c) EMPLOYEES.—The Director, with the approval of the Board, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Institute.

(d) PREFERENCE.—In implementing this section, the Board and the Director shall afford preference to American Indians.

**SEC. 10. NONPROFIT AND NONPOLITICAL NATURE OF INSTITUTE.**

(a) NOT AN ADVOCACY ORGANIZATION.—The Institute shall not engage in the advocacy of public policy alternatives, represent itself as the voice of tribal governments, or take other actions that might be construed as interfering with or diminishing the government-to-government relationship between tribal governments and the United States.

(b) NO SUPPORT TO POLITICAL PARTIES.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(c) OTHER.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual, except as salary or reasonable compensation for services.

**SEC. 11. TAX STATUS OF INSTITUTE.**

The Institute and the franchise, capital, reserves, income and property of the Institute is exempt from all taxation imposed by the United States, by any Indian tribal government, or by any State or political subdivision thereof, or the District of Columbia.

**SEC. 12. TRANSFER OF FUNCTIONS AND ADMINISTRATION BY THE GEORGE WASHINGTON UNIVERSITY.**

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Institute, and such Institute shall perform, the functions of the National Center for Native American Studies and Indian Policy Development, as authorized under section 11 of Public Law 101-301.

(b) GRANT.—Subject to an appropriation by the Congress for this purpose, within 30 days following the date of the enactment of this Act, the Secretary of Health and Human Services shall award a grant to the George Washington University for all activities of the Institute and to enable the University to provide such management, technical and support assistance to the Institute as may be reasonable or necessary to operate the Institute, including audit, accounting, computer services and building and maintenance services. Subject to the availability of funds, the grant shall be automatically renewable, at the option of the University, on an annual basis until such time as Congress may provide otherwise. No offsets or matching requirements may be imposed.

**SEC. 13. RELATIONSHIP WITH TRIBAL COLLEGES.**

The Director of the Institute, pursuant to the direction of, and in consultation with, the Board of Directors, is authorized to enter into contracts, memoranda of understanding and agreements with, and make grants to—

(1) tribally-controlled community colleges as defined by section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; and

[(2) the United Tribes Technical College and Southwest Indian Polytechnic Institute;]

*(2) the United Tribes Technical College, Southwest Indian Polytechnic Institute, Haskell Indian Junior College, and Crownpoint Institute of Technology;*

for the purpose of conducting research, developing issue papers, or to assist the Institute in carrying out its responsibilities under this Act.

**SEC. 14. REPORTS.**

(a) ANNUAL REPORT.—The Director of the Institute shall submit an annual report to the chairman of the Senate Select Committee on Indian Affairs, the chairman of the Interior and Insular Affairs Committee of the House of Representatives, and to the Board concerning the activities and status of the Institute during the 12-month period preceding the date of the report. Such report shall include, among other matters, a comprehensive summary of studies performed and activities carried out, a detailed statement of private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period, and the disposition thereof, as well as any recommendations for improving the Institute. Such report shall also be provided to all tribal governments.

(b) BUDGET PROPOSAL.—(1) The Board shall submit a budget proposal for the Institute for fiscal year 1994, and each fiscal year thereafter, to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall transmit such budget proposal, together with the budget proposal of the Department of Health and Human Services, to the President of the United States. The budget proposal of the Institute shall be included in the annual budget of the President of the United States.

(2) In determining the amount of funds to be appropriated for any fiscal year to the Institute on the basis of the budget of the Institute for that fiscal year, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

**SEC. 15. COMPLIANCE WITH FEDERAL LAWS.**

For the purpose of administering the Federal criminal laws relating to larceny, embezzlement, or conversion of property or funds, the Institute shall be considered to be a Federal entity and subject to such laws.

**SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated $1,000,000 for fiscal year 1994, and for fiscal years 1995 and 1996, such sums as may be necessary to carry out the provisions of this Act. Funds appropriated pursuant to the authorizations under this section shall remain available without fiscal year limitation.

AMENDMENT NO. 3391

(Purpose: To delete authorizations for grants and a fellowship program and to clarify that the Resource Advisory Council is only an advisory council, having no executive functions)

Mr. EXON. Mr. President, I send an amendment to the desk on behalf of Senator INOUYE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. INOUYE, proposes an amendment numbered 3391.

Mr. EXON. 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:

Beginning on page 8, line 16, delete all through line 23;

On page 17, line 6, delete "Council—" and insert in lieu thereof "Council, which is advisory only and exercises no executive authority—";

On page 17, line 20, delete "shall" and insert in lieu thereof "may"; and

On page 20, line 17, delete "with, and make grants to—" and insert in lieu thereof "with—".

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

The amendment (No. 3391) was agreed to.

Mr. INOUYE. Mr. President, the Select Committee on Indian Affairs was informed of the administration's views on S. 3155 only after the bill was ordered favorably reported on September 25. It is to meet the objections of the Department of Justice to S. 3155 that this amendment is being offered.

The Department of Justice had objected to a provision authorizing the grant of fellowships by the National Indian Policy Research Institute, since its board is not made up of persons appointed by the President, but would be carrying out a governmental function. The amendment would eliminate the authorization for the Institute to award fellowships.

Second, the Department objected, on the same grounds, to the provision authorizing the Institute to make grants to tribally controlled community colleges and other postsecondary institutions. The amendment deletes that grantmaking authority.

Third, the Department pointed out the need to clarify that the Resource Advisory Council was only advisory, possessed no executive function, and could not be required to make recommendations to the Congress. The amendment clarifies the advisory role of the Council and removes any obligation for the Council to make recommendations to the Congress.

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 be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3155

*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 Indian Policy Research Institute Act".

**SEC. 2. FINDINGS.**

(a) FINDINGS OF CONGRESS.—The Congress finds that:

(1) The policy of the United States toward Indian and Alaska Native tribes which has emerged over the course of 200 years of relationships is based upon the following fundamental principles:

(A) the United States has a trust responsibility to protect, maintain, and manage Indian lands and related natural resources, including water, fisheries, game and game habitat, and to preserve permanent homelands for native people within this Nation;

(B) tribal rights of self-government are recognized under the United States Constitution and numerous treaties, intergovernmental agreements, statutes and Executive orders, and have been consistently upheld by the highest courts of the United States;

(C) the goals of economic self-sufficiency and improvement of the social well-being of tribal communities, with the objective of achieving parity with the general United States population as evidenced by national averages for health care, per capita income and rates of employment and educational achievement, are recognized as the basis of numerous Federal statutes and administrative policies;

(D) the unique cultural heritage of tribal people in the United States, including maintenance of native language proficiency, the practice of traditional ceremonies, and religious and artistic expression, is recognized in numerous Acts of Congress as an irreplaceable national heritage to be supported and protected; and

(E) for nearly two decades, the United States has consistently endorsed and advanced the principle of Indian self-determination, with the objective of ending Federal domination of programs affecting Indians and ensuring that tribal governments are empowered to plan, conduct, and administer such programs themselves.

(2) Despite broad agreement on the underlying principles of United States Indian policy, laws enacted by the Congress and regulations adopted by Federal agencies do not invariably reflect such principles owing to the large number of executive branch agencies and the large number of congressional committees determining policy and owing to the absence of an institutional resource from which agencies and congressional committees might obtain objective and reliable data, information, and analyses based upon the fullest knowledge of the underlying policy principles.

(3) Performance of its trust responsibility to American Indians consistent with the highest fiduciary standards requires the United States to assure that informed and reliable information and scholarly analyses are available to institutions shaping public policy.

(4) Federal Indian policy impacts the lives and property of all American citizens, Indian and non-Indian, living on or near reservations throughout Indian country.

(5) Establishment of an independent, nonpartisan, institute to provide data, information, and analyses related to Indian issues would assist institutions in shaping sound and consistent public policy and its establishment is warranted.

(6) The establishment of an institute is not intended, nor should it be construed as, a delegation of the responsibilities of the United States in formulating and adopting public policy.

**SEC. 3. DEFINITIONS.**

For purposes of this Act:

(1) The term "Indian" means any person who is a member of an Indian tribe.

(2) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians including any Alaska Native village which is recognized by the United States as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "Institute" means the National Indian Policy Research Institute established by this Act.

(4) The term "Board" means the Board of Directors of the Institute.

(5) The term "president" means the president of the George Washington University located in Washington, District of Columbia.

**SEC. 4. ESTABLISHMENT OF INSTITUTE.**

(a) IN GENERAL.—There is established a federally chartered corporation to be known as the "National Indian Policy Research Institute" which shall be located in Washington, District of Columbia, and, with the consent of George Washington University, as indicated by the acceptance by it of the grant authorized under section 12 of this Act, within the George Washington University for purposes of administration and management. For purposes of policy and direction, the Institute shall be under the control of the Board of Directors established under section 7 of this Act.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The Federal corporation established by this Act shall have succession, subject to the review provided for in subsection (c), until dissolved by Act of Congress. The Congress shall have exclusive authority to revise or amend the provisions of this Act involving the establishment and operation of such corporation.

(c) REVIEW.—No later than 60 months after enactment of this Act, the Congress shall review the activities and performance of the Institute and of George Washington University in support of the Institute's purposes to determine whether amendments to this Act are required.

**SEC. 5. FUNCTIONS.**

(a) RESEARCH AND ANALYSIS.—The Institute shall, at the request of institutions shaping policies affecting Indians or upon its own initiative, conduct or commission research and analysis to be carried out, in accordance with the highest standards of scholarship and independence, on issues related to the development of public policy affecting Indians. The Institute shall adopt criteria and procedures to guide the selection of research projects. Priority consideration shall be given to policy initiatives proposed for consideration by the executive or legislative branches of the Federal Government. In conducting or commissioning research and analysis on issues relating to the development of public policy affecting Indians, the Institute shall ensure that such research shall consider all factors affecting Indian policy including the impact of such policy upon other Americans.

(b) DATA AND INFORMATION CLEARINGHOUSE.—The Institute shall establish a data base to make accessible information and data maintained by Government agencies, academic institutions, and Indian and other organizations, and shall develop computer and telecommunication networks to make such information recoverable by policymakers and the public. Where it is determined that developing a new and specific data base is required, the Institute shall undertake to meet such need.

(c) FORUMS AND SYMPOSIA.—The Institute shall conduct periodic public forums to identify and explore emerging Indian policy issues and to identify needs for data, information, or analyses, and shall conduct symposia, when appropriate, to clarify options for policymakers and to advance an understanding of complex and interrelated public policy issues as they affect Indian people and the formulation of Indian policy.

(d) PUBLIC INFORMATION.—(1) The Institute shall publish and make available to the executive and legislative branches of the Federal Government, tribal governments, tribal colleges, and the public, the products of its research and reports of other activities by disseminating information about such research and reports as deemed appropriate by the Board.

(2) Nothing in paragraph (1) or any other provision of this Act shall be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by such tribal government to the Institute under this Act.

**SEC. 6. GENERAL POWERS OF INSTITUTE.**

(a) POWERS OF INSTITUTE.—In carrying out the provisions of this Act, the Institute shall have the power, consistent with the provisions of this Act—

(1) to adopt, use and alter a corporate seal;

(2) to make, subject to the availability of funds, agreements and contracts with persons, Indian tribal governments, tribal organizations, and private or governmental entities, and to make payments or advance payments under such agreements or contracts without regard to the provisions of section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the Federal agency concerned and on a reimbursable basis, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the Federal Government in carrying out the provisions of this Act, and to pay for such use;

(6) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(7) to receive grants from, and subject to the availability of funds, enter into contracts and other arrangements with Federal, State, tribal, or local governments, public

and private agencies, organizations, institutions, and individuals;

(8) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Institute to carry out the provisions of this Act;

(9) to obtain insurance or make other provisions against losses;

(10) to use any funds or property received by the Institute to carry out the purpose of this Act except that any funds received by, or under the control of the Institute that are not Federal funds shall be accounted for separately from Federal funds; and

(11) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this Act and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

**SEC. 7. BOARD OF DIRECTORS.**

(a) COMPOSITION.—

(1) The Board of Directors of the Institute shall consist of the following members:

(A) Seven individuals appointed within 12 months following the date of enactment of this Act by the President pro tempore of the Senate and 7 individuals appointed within the same period by the Speaker of the House of Representatives, who are representative of a broad range of Indian policy expertise as evidenced by established credentials in the different disciplines which make up the diverse field of Indian policy, including degrees from recognized academic institutions, leadership in public policymaking positions, or affiliation with public and private institutions which are known for their significant contributions to the public interest. The President pro tempore shall appoint from a list of persons submitted by the chairman of the Select Committee on Indian Affairs, and the Speaker shall appoint from a list of persons submitted by the chairman of the Interior and Insular Affairs Committee.

(B) Two individuals appointed by the president of George Washington University within 12 months following the date of the enactment of this Act from among the faculty, officers, or employees of George Washington University. Members appointed pursuant to this subparagraph shall serve at the pleasure of the president.

(C) The president of George Washington University, or his or her designee, and the Director of the Institute, both of whom shall serve as ex officio voting members of the Board.

(2) In making appointments under subsection (a)(1)(A), the appointing authorities shall—

(A) consult with Indian tribal governments and tribal organizations;

(B) solicit nominations from Indian public policy specialists, Indian tribal governments, tribal colleges, other Indian organizations, academic institutions and public officials with Indian policy responsibilities; and

(C) ensure that a majority of appointments are Indians who are broadly representative of Indian country.

(b) INTERIM BOARD.—The Planning Committee, appointed by the president of George Washington University to assist with the feasibility study for the establishment of a National Center for Native American Studies and Indian Policy Development, as authorized by section 11 of Public Law 101-301, and composed of those individuals serving at the time of enactment of this Act, shall serve as the interim Board until the appointments authorized in subsection (a)(1) have been made. Their service shall terminate on the date that all members authorized to be appointed under subparagraphs (A) and (B) of paragraph (1) of subsection (a) are appointed.

(c) TERMS OF OFFICE.—

(1) Except as otherwise provided in this section, members of the Board of Directors appointed pursuant to subsection (a)(1)(A) shall be appointed for terms of office of 3 years.

(2) Of the members first appointed under subsection (a)(1)(A) of this section—

(A) 5 shall have a term of office of 12 months;

(B) 5 shall have a term of office of 24 months; and

(C) 4 shall have a term of office of 36 months.

(3) The term of office assigned to each of the initial members of the Board as provided under paragraph (2) shall be determined by the appointing authorities at the time of appointment, except that no member shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(d) VACANCIES.—Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term.

(e) REMOVAL.—No member of the Board appointed pursuant to subsection (a)(1)(A) of this section may be removed during the term of office of such member except for just and sufficient cause. However, absence from 3 consecutive meetings shall be considered just and sufficient cause.

(f) POWERS OF BOARD.—The Board is authorized to—

(1) formulate policy for the Institute and provide direction for its management, in consultation with George Washington University; and

(2) make such bylaws and rules as it deems necessary for the administration of its functions under this Act, including the organization and operating procedures of the Board.

(g) OFFICERS AND EXECUTIVE COMMITTEE.—The Board shall select from among its members an executive committee to be comprised of a co-chair selected by the Board to serve with a co-chair designated by George Washington University, and a vice chair, secretary, treasurer, and one at-large member selected by the Board. In accordance with the bylaws of the Board, such members shall provide direction for the Board, and serve in lieu of the Board on matters requiring Board action, subject to review and action by the Board as the members of the Board may deem appropriate.

(h) COMMITTEES.—The Board may establish such committees, task forces, and working groups as it deems appropriate and necessary.

(i) COMPENSATION.—Members of the Board appointed under subsection (a)(1)(A) shall, for each day they are engaged in the performance of their duties, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular place of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

**SEC. 8. RESOURCE ADVISORY COUNCIL.**

(a) RESOURCE ADVISORY COUNCIL.—There is established the Resource Advisory Council to the National Indian Policy Research Institute (hereafter referred to as the "Council") which shall provide assistance in the development and operations of the Institute.

(b) COMPOSITION.—The membership of the Council is as follows:

(1) Secretary of Health and Human Services;

(2) Secretary of Interior;

(3) Secretary of Education;

(4) Secretary, Smithsonian Institution;

(5) Secretary of Commerce;

(6) Secretary of Labor;

(7) Administrator of the Environmental Protection Agency;

(8) Director, National Academy of Sciences;

(9) Librarian of Congress;

(10) Director, Office of Technology Assessment

(11) Director, National Institutes of Health;

(12) Chairman, Select Committee on Indian Affairs, United States Senate; and

(13) Chairman, Interior and Insular Affairs Committee, United States House of Representatives.

(c) FUNCTIONS.—The Council, which is advisory only and exercises no executive authority—

(1) shall make recommendations to the Board of Directors regarding research procedures and organizational development;

(2) shall provide professional and technical assistance upon request of the Board of Directors, including staff support for the activities of the Council;

(3) when biannual meetings are called by the chairmen of the Senate Select Committee on Indian Affairs and the Committee on Interior and Insular Affairs of the House of Representatives, shall attend such meetings or shall designate an individual or individuals to attend on behalf of the Council; and

(4) may make reports and recommendations to the Board of Directors and to the Congress as they may from time to time request, or as the Council may consider necessary to more effectively accomplish the purposes of this Act.

**SEC. 9. OFFICERS AND EMPLOYEES.**

(a) DIRECTOR.—The Board of Directors, with the concurrence of the president, shall appoint a Director of the Institute. The Director may only be removed from office by the Board in accordance with the bylaws of the Institute.

(b) RESPONSIBILITY OF DIRECTOR.—Subject to the direction of the Board, and the general supervision of the president, the Director shall have the responsibility for carrying out the policies and functions of the Institute, and shall have authority over all personnel and activities of the Institute.

(c) EMPLOYEES.—The Director, with the approval of the Board, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Institute.

(d) PREFERENCE.—In implementing this section, the Board and the Director shall afford preference to American Indians.

**SEC. 10. NONPROFIT AND NONPOLITICAL NATURE OF INSTITUTE.**

(a) NOT AN ADVOCACY ORGANIZATION.—The Institute shall not engage in the advocacy of public policy alternatives, represent itself as the voice of tribal governments, or take other actions that might be construed as interfering with or diminishing the government-to-government relationship between tribal governments and the United States.

(b) NO SUPPORT TO POLITICAL PARTIES.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(c) OTHER.—No part of the income or assets of the Institute shall inure to the benefit of

any director, officer, employee, or any other individual, except as salary or reasonable compensation for services.

**SEC. 11. TAX STATUS OF INSTITUTE.**

The Institute and the franchise, capital, reserves, income and property of the Institute is exempt from all taxation imposed by the United States, by any Indian tribal government, or by any State or political subdivision thereof, or the District of Columbia.

**SEC. 12. TRANSFER OF FUNCTIONS AND ADMINISTRATION BY THE GEORGE WASHINGTON UNIVERSITY.**

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Institute, and such Institute shall perform, the functions of the National Center for Native American Studies and Indian Policy Development, as authorized under section 11 of Public Law 101-301.

(b) GRANT.—Subject to an appropriation by the Congress for this purpose, within 30 days following the date of the enactment of this Act, the Secretary of Health and Human Services shall award a grant to the George Washington University for all activities of the Institute and to enable the University to provide such management, technical and support assistance to the Institute as may be reasonable or necessary to operate the Institute, including audit, accounting, computer services and building and maintenance services. Subject to the availability of funds, the grant shall be automatically renewable, at the option of the University, on an annual basis until such time as Congress may provide otherwise. No offsets or matching requirements may be imposed.

**SEC. 13. RELATIONSHIP WITH TRIBAL COLLEGES.**

The Director of the Institute, pursuant to the direction of, and in consultation with, the Board of Directors, is authorized to enter into contracts, memoranda of understanding and agreements with—

(1) tribally controlled community colleges as defined by section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; and

(2) the United Tribes Technical College, Southwest Indian Polytechnic Institute, Haskell Indian Junior College, and Crownpoint Institute of Technology;

for the purpose of conducting research, developing issue papers, or to assist the Institute in carrying out its responsibilities under this Act.

**SEC. 14. REPORTS.**

(a) ANNUAL REPORT.—The Director of the Institute shall submit an annual report to the chairman of the Senate Select Committee on Indian Affairs, the chairman of the Interior and Insular Affairs Committee of the House of Representatives, and to the Board concerning the activities and status of the Institute during the 12-month period preceding the date of the report. Such report shall include, among other matters, a comprehensive summary of studies performed and activities carried out, a detailed statement of private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period, and the disposition thereof, as well as any recommendations for improving the Institute. Such report shall also be provided to all tribal governments.

(b) BUDGET PROPOSAL.—(1) The Board shall submit a budget proposal for the Institute for fiscal year 1994, and each fiscal year thereafter, to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall transmit such budget proposal, together with the budget proposal of the Department of Health and Human Services, to the President of the United States. The budget proposal of the Institute shall be included in the annual budget of the President of the United States.

(2) In determining the amount of funds to be appropriated for any fiscal year to the Institute on the basis of the budget of the Institute for that fiscal year, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

**SEC. 15. COMPLIANCE WITH FEDERAL LAWS.**

For the purpose of administering the Federal criminal laws relating to larceny, embezzlement, or conversion of property or funds, the Institute shall be considered to be a Federal entity and subject to such laws.

**SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated $1,000,000 for fiscal year 1994, and for fiscal years 1995 and 1996, such sums as may be necessary to carry out the provisions of this Act. Funds appropriated pursuant to the authorizations under this section shall remain available without fiscal year limitation.

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

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

The motion to lay on the table was agreed to.

## CASH MANAGEMENT IMPROVEMENT ACT AMENDMENTS OF 1992

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 701, S. 2970, the Cash Management Improvement Act Amendments of 1992.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2970) to amend the Cash Management Improvement Act of 1990, 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 Governmental Affairs, 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 "Cash Management Improvement Act Amendments of 1992".*

***SEC. 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.***

*The Cash Management Improvement Act of 1990 (Public Law 101-453, 104 Stat. 1058) is amended—*

*(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act" and inserting "with regard to each State, by July 1, 1993";*

*(2) in section 5 (31 U.S.C. 6503 note)—*

*(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";*

*(B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and*

*(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and*

*(3) in section 6 (31 U.S.C. 6503 note), by striking "Four" and inserting "Five".*

***SEC. 3. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.***

*Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:*

*"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".*

***SEC. 4. INTERNAL REVENUE SERVICE TAX REFUND OFFSET.***

*Section 3720A of title 31, United States Code, is amended—*

*(1) by amending subsection (a) to read as follows:*

*"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";*

*(2) in subsection (b)—*

*(A) in paragraph (3) by striking out "and" at the end thereof;*

*(B) in paragraph (4) by striking out "and that the agency has made reasonable efforts to obtain payment of such debt." and inserting in lieu thereof "; and"; and*

*(C) by adding at the end thereof the following new paragraph:*

*"(5) certifies that reasonable efforts have been made to obtain payment of such debt.";*

*(3) by redesignating subsection (g) as subsection (h);*

*(4) in subsection (h) (as redesignated under paragraph (3) of this section)—*

*(A) in paragraph (2) by striking out "and" at the end thereof;*

*(B) in paragraph (3) by adding "; and" at the end thereof; and*

*(C) by adding after paragraph (3) the following new paragraph:*

*"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."; and*

*(5) by inserting after subsection (f) the following:*

*"(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".*

***SEC. 5. EXTENSION OF THE PRIVATE COUNSEL PILOT.***

*(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to*

*amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578) is extended through September 30, 1996.*

*(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".*

*(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".*

***SEC. 6. AUDIT BY INSPECTOR GENERAL.***

*(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.*

*(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.*

***SEC. 7. EFFECTIVE DATE.***

*The provisions of this Act and amendments made by this Act shall become effective on the date of enactment of this Act.*

AMENDMENT NO. 3392

(Purpose: To amend the Cash Management Improvement Act of 1990, and for other purposes)

Mr. EXON. Mr. President, I send an amendment to the desk on behalf of Mr. GLENN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. GLENN, proposes an amendment numbered 3392.

Mr. EXON. 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:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Cash Management Improvement Act Amendments of 1992".

**SEC. 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.**

The Cash Management Improvement Act of 1990 (Public Law 101-453, 104 Stat. 1058) is amended—

(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act";

(2) in section 5 (31 U.S.C. 6503 note)—

(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";

(B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(3) in section 6 (31 U.S.C. 6503 note), by striking "Four and inserting "Five".

**SEC. 3. INTERNAL REVENUE SERVICE TAX REFUND OFFSET.**

Section 3720A of title 31, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";

(2) in subsection (b)—

(A) in paragraph (3) by striking out "and" at the end thereof;

(B) in paragraph (4) by striking out "to obtain payment of such debt." and inserting in lieu thereof "(determined on a government-wide basis) to obtain payment of such debt; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.";

(3) by redesignating subsection (g) as subsection (h);

(4) in subsection (h) (as redesignated under paragraph (3) of this section)—

(A) in paragraph (2) by striking out "and" at the end thereof;

(B) in paragraph (3) by adding "; and" at the end thereof; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."; and

(5) by inserting after subsection (f) the following:

"(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".

**SEC. 4. EXTENSION OF THE PRIVATE COUNSEL PILOT.**

(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States." approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578) is extended through September 30, 1996.

(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".

(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".

(d) CONTRACT EXTENSION.—The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.

**SEC. 5. AUDIT BY INSPECTOR GENERAL.**

(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.

**SEC. 6. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.**

Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".

**SEC. 7. EFFECTIVE DATE.**

The provisions of this Act and amendments made by this Act shall take effect on the date of enactment of this Act, except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.

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

The amendment (No. 3392) was agreed to.

Mr. LIEBERMAN. Mr. President, on behalf of Chairman GLENN, I rise today to clarify one question that has been raised regarding the provisions extending the private counsel pilot project. Some have raised fears that the Department of Justice would be required by this legislation to shut down the project to resolicit Requests for Proposals. This is not the intent of the legislation or of the committee.

It is not the intent of the committee to interrupt ongoing debt collection activities being carried out under the private counsel pilot project. It is the intent of this legislation to allow the Attorney General to administer the project to ensure its smooth and continuous operation, including, if the Attorney General deems it appropriate and to the extent necessary to ensure such smooth and continuous operation, to permit the Attorney General to extend contracts currently in existence with private counsel. The Attorney General is granted such authority, however, only for such time as is necessary to carry out a full and open procurement for private collection services in those areas where contracts are expiring. This legislation in no way creates an indefinite waiver of competition requirements.

The committee recognizes, however, that the Department is also currently conducting its procurement of a new nationwide Central Intake Facility, and that it may not be possible to begin the procurement of new private counsel contracts to replace existing contracts until after completion of the CIF procurement. If the Attorney General deems it necessary to delay the start of those procurements pending completion of the CIF procurement, nothing in this legislation requires him to do otherwise.

Mr. President, I also want to make it clear that the committee is pushing this legislation forward on the basis of representations it has received from the Office of Management and Budget that this legislation will not cause a sequester. The Office of Management and Budget has told the committee that it will score this legislation as increasing outlays by $75 million in fiscal year 1993, and as increasing offsetting revenues by $80 million for the same year. Thus, the net effect of this bill in fiscal year 1993 is to increase revenues by $5 million.

In addition, OMB has told the committee that over the 5-year budget period, it expects this legislation to raise revenue by a total of $36 million. It is important to note that none of these increases in revenue come from additional fees or taxes, but simply through improving collection of debts already owed the Federal Government.

Mr. President, this is legislation that needs to be passed before we adjourn. I have been contacted by the top three financial management officials in the Connecticut State government asking us to pass this bill. I urge my colleagues to do so.

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.

Mr. EXON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 5377, 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. 2970, as amended, be inserted in lieu thereof, that the bill be advanced to third reading, passed and the motion to reconsider laid upon the table.

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

So the bill (H.R. 5377) was passed.

Mr. EXON. Mr. President, I ask unanimous consent that Calendar No. 701 indefinitely be postponed.

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

## PEACE CORPS REAUTHORIZATION

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3309, introduced earlier today by Senator CRANSTON, reauthorizing the Peace Corps; that the bill be deemed read a third time and passed, and the motion to reconsider be laid upon the table.

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

So the bill (S. 3309) was passed, as follows:

S. 3309

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

**SECTION 1. AUTHORIZATIONS OF APPROPRIATIONS.**

Section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended to read as follows:

"(b) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this Act $218,146,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.".

**SEC. 2. PEACE CORPS FOREIGN CURRENCY FLUCTUATIONS.**

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—The Peace Corps Act (22 U.S.C. 2501 et seq.) is amended by inserting after section 15 the following new section:

**"SEC. 16. FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.**

"(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States an account to be known as the 'Foreign Currency Fluctuations, Peace Corps, Account'. The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.

"(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director's designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

"(b) USE OF FUNDS IN THE ACCOUNT.—Funds transferred under subsection (a) shall be merged with, and be available for the same time period, as the appropriation to which they are applied. Notwithstanding any provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year, such amount shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) EXCHANGE RATES APPLICABLE TO OBLIGATIONS.—An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) TRANSFERS BACK TO ACCOUNT.—Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) LIMITATION ON TRANSFERS BACK.—A transfer of funds back to the account under subsection (d) may not be made after the end of the fiscal year or other period for which the appropriation, to which the funds were originally transferred, is available for obligation.

"(f) TRANSFERS TO THE ACCOUNT FROM REGULAR APPROPRIATIONS.—(1) At the end of the fiscal year or other period for which appropriations for the expenses of the Peace Corps are made available, unobligated balances of such appropriation may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with, and to be available for the same period and purposes as, that account.

"(2) The authority of this subsection shall be exercised only to the extent that specific amounts are provided in advance in an appropriation Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for each fiscal year such sums as may be necessary to maintain a balance of $5,000,000 in such account at the beginning of such fiscal year.

"(h) REPORTS.—Each year the Director of the Peace Corps shall submit to the Committee on Foreign Affairs and the Committee on

Appropriations of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on funds transferred under this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1992.

**SEC. 3. EVALUATION OF HEALTH-CARE SERVICES PROVIDED TO PEACE CORPS VOLUNTEERS.**

(a) IN GENERAL.—The Director of the Peace Corps shall contract with an eligible organization or organizations to conduct before January 1, 1997, a total of three evaluations of the health-care needs of the Peace Corps volunteers and the adequacy of the system through which the Peace Corps provides health-care services in meeting those needs.

(b) REQUIREMENTS OF THE EVALUATIONS.—Each evaluation shall include an assessment of the adequacy of the Peace Corps health-care system—

(1) to provide diagnostic, treatment, and referral services to meet the health-care needs of Peace Corps volunteers, and

(2) to conduct health examinations of applicants for enrollment as Peace Corps volunteers and to provide immunization and dental care preparatory to service of applicants for enrollment who have accepted an invitation to begin a period of training for service as a Peace Corps volunteer.

(c) REPORTS TO THE PEACE CORPS.—An organization making an evaluation under this section shall submit to the Director of the Peace Corps a report containing its findings and recommendations not later than May 31, 1993, December 31, 1994, and December 31, 1996, as the case may be. Each report shall include recommendations regarding appropriate standards and procedures for ensuring the furnishing of quality medical care and for measuring the quality of care provided to Peace Corps volunteers.

(d) REPORT TO CONGRESS.—Not later than 90 days after receipt of a report required by subsection (c), the Director of the Peace Corps shall transmit the report, together with the Director's comments, to the appropriate congressional committees.

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

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(2) the term "eligible organization" means an independent health-care accreditation organization or other independent organization with expertise in evaluating health-care systems similar to that of the Peace Corps.

**SEC. 4. REPORTING REQUIREMENT ON EMPLOYMENT-RELATED MATTERS.**

(a) IN GENERAL.—Not later than May 31, 1992, the Director of the Peace Corps and the Secretary of Labor shall jointly submit to the appropriate congressional committees a report which describes—

(1) the information provided by the Peace Corps to its volunteers and to applicants for volunteer service in the Peace Corps regarding the benefits and services to which Peace Corps volunteers or trainees may be entitled or for which they may be eligible in the event that they sustain injuries or become disabled during their service, or their training for service, with the Peace Corps;

(2) the efforts by the Peace Corps and the Department of Labor to coordinate the provision of such information to Peace Corps volunteer-applicants and volunteers and the processing of claims by Peace Corps volunteers under the Federal Employees Compensation Act (FECA);

(3) the number of Peace Corps volunteers and volunteer-applicants who have filed claims under the Federal Employees Compensation Act (FECA) and the percentage of the claims that have been approved; and

(4) the timeliness of approvals or denials of claims of Peace Corps volunteers and volunteer-applicants under the Federal Employees Compensation Act (FECA).

(b) RECOMMENDATIONS.—The report required by subsection (a) shall also include such recommendations as the Director of the Peace Corps and the Secretary of Labor may determine necessary to facilitate the filing and processing of claims by Peace Corps volunteers regarding the benefits described in that subsection.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(2) the term "Federal Employees Compensation Act (FECA)" means chapter 81 of title 5, United States Code.

**SEC. 5. PEACE CORPS PROGRAMS IN THE FORMER SOVIET UNION.**

(a) AVAILABILITY OF FUNDS.—Up to $6,000,000 of the funds made available to carry out the Peace Corps Act for fiscal year 1993 shall be made available for establishing Small Business Development Programs in the independent states of the former Soviet Union. The programs shall include the promotion of local economic development by providing technical assistance and training in municipal restructuring and financing, privatization, valuation of state-owned enterprises, the development and promotion of business associations, and the identification of investment opportunities and requirements.

(b) DEFINITION.—For purposes of this section, the term "independent states of the former Soviet Union" means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

## S. 3309: PEACE CORPS AUTHORIZATION

Mr. CRANSTON. Mr. President, I have today introduced S. 3309, legislation relating to the Peace Corps which contains provisions previously reported by the Foreign Relations Committee and passed by the Senate as title XII of the conference report on H.R. 2508, the proposed International Cooperation Act of 1991. As my colleagues are aware, the conference report on H.R. 2508 will not be enacted during this Congress for reasons unrelated to the Peace Corps provisions. The provisions of this bill are noncontroversial and would make needed administrative and programmatic improvements to the Peace Corps operations, and I urge my colleagues to support its passage.

Mr. President, the provisions in this bill were derived from S. 1042, a fiscal year 1992 authorization bill I introduced in the first session of the 102d Congress with the cosponsorship of the chairman of the Foreign Relations Committee, Senator PELL, committee members, Senator WOFFORD and Senator SIMON, and Senators DECONCINI, ROCKEFELLER, and BOREN. The provisions of S. 1042, except for section 4 of the bill, relating to the crediting of Peace Corps volunteer service for Federal retirement purposes, were approved by the Foreign Relations Committee at the committee's June 11, 1991, markup, and reported favorably by the committee in title XI of S. 1435, an original bill comprised of provisions from numerous initiatives that had been referred to the committee. The text of S. 1435 was passed by the Senate on July 26, 1991, as a substitute amendment to H.R. 2508. Thereafter, the Senate-passed Peace Corps provisions were included in title XII of the conference report on H.R. 2508, which also included an amendment to authorize the Peace Corps to carry out programs in the sovereign States of the former Soviet Union. That provision would not require any Peace Corps action and, thus, would not violate the Congress' long-standing practice of not mandating particular Peace Corps programs.

The Senate passed the conference report on H.R. 2508 on October 8, 1991, but on October 30, 1991, the House voted down the conference report because of matters unrelated to the Peace Corps provisions.

AUTHORIZATION OF APPROPRIATIONS

Mr. President, section 1 of the bill would amend section 3 of the Peace Corps Act to authorize a fiscal year 1993 appropriation of $218,146,000 which would be available through September 30, 1994. This is the amount that was requested by the administration and has been approved by both the House and Senate, though final action on the foreign operations appropriations bill has not been taken and would allow for progress towards achieving the congressionally mandated goal of 10,000 volunteers established in section 1102 of the International Security and Development Cooperation Act of 1985, Public Law 99–83.

I note that section 1 would provide for fiscal year 1993 funds to be spent through the following fiscal year, which would provide the Peace Corps with added flexibility to plan programs for more than a 1-year period. When the Peace Corps makes plans to enter a new country or accept a new group of volunteers, the agency is making a commitment of at least 2 years to both the country and the volunteers. Requiring a wait-and-see approach to funding each year causes underutilization of resources and a failure to achieve steady and well-planned growth. I note that the administration's fiscal year 1992 and fiscal year 1993 budget requests included a similar

proposal to allow funds appropriated in each of those fiscal years to remain available through the following fiscal year.

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

Mr. President, section 2 of the bill would establish a foreign currency fluctuations account from which the Peace Corps could draw when the costs of its operations increase as a result of a decline in the value of the U.S. dollar. One significant factor that has slowed progress toward the 10,000 volunteer goal has been the decreased value of Peace Corps funding due to foreign currency fluctuations.

In a February 27, 1989, letter to me, then-Director Ruppe stated that, due to the falling dollar, $1.5 million was lost in fiscal year 1989. The Peace Corps has recently advised that, in fiscal year 1990, $2.1 million was lost to foreign currency fluctuations and an additional $2.1 million was lost in fiscal year 1991. In order to avoid such losses in the future, section 3 of our bill would establish a foreign currency fluctuations account for the Peace Corps patterned after similar accounts established for the Departments of Defense and State in 10 U.S.C. 2779 and 22 U.S.C. 2696, respectively, and for the American Battle Monuments Commission in 36 U.S.C. 138(c). The bill would authorize appropriations of amounts sufficient to maintain a balance of $5 million in the account. Such a foreign currency fluctuations account would help to ensure that, by stabilizing Peace Corps fiscal support, the congressionally intended levels of program operations are achieved. The account would provide a mechanism for redistributing savings realized in certain years when the value of the dollar rises to offset losses in other years in which the dollar drops.

PEACE CORPS HEALTH CARE SERVICES

Mr. President, section 3 of the bill would require independent evaluations of health care services for Peace Corps volunteers and the submission of reports on such evaluations to the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

The Peace Corps annually provides complete healthcare services to approximately 6,000 volunteers and trainees worldwide. Each Peace Corps country program is required, before volunteers arrive, to establish a medical office, which is staffed by a Peace Corps medical officer and usually one other person. The country director is responsible for recruiting the medical staff, and the Peace Corps' Washington office of medical services provides hiring criteria and advice on the applicants. A degree from a medical or nursing school accredited in the United States is not required of Peace Corps medical officers. Within each Peace Corps country, local healthcare facilities are identified to serve as referral facilities for healthcare problems that the medical officer is not equipped to handle, and, in the cases of severe medical problems or emergencies for which there are not adequate hostcountry facilities, the volunteer is evacuated to either a nearby Peace Corps country or to the United States for care.

Mr. President, a General Accounting Office [GAO] review of the Peace Corps' healthcare system, conducted at the request of Sen. INOUYE and completed in July 1991, found several deficiencies in that system, including inadequate systems to monitor the quality of health services provided to volunteers. Among GAO's recommendations published in its July 1991 report, entitled "Peace Corps: Long-Needed Improvements to Volunteers' Health Care system," was that regular outside reviews of Peace Corps' healthcare system should be conducted. The Peace Corps, in response to that recommendation and at the strong urging of the Senate Appropriations Subcommittee on Foreign Operations and earlier Senate and House passage of this provision, has initiated a process of improving and monitoring its healthcare system and has contracted for a series of independent evaluations as proposed in section 3. I am pleased that the Peace Corps has taken these steps. Section 3 of the bill would ensure that the evaluations are completed and that the responsible congressional committees are fully informed of the results in a timely way.

FEDERAL EMPLOYMENT COMPENSATION CLAIMS

Mr. President, section 4 of our bill would require a report on Peace Corps and Department of Labor activities regarding the claims of disabled former volunteers for Federal workers compensation benefits.

If a Peace Corps volunteer contracts a disease or becomes disabled during Peace Corps service, he or she is eligible for assistance under the Federal Employees' Compensation Act [FECA], administered by the Department of Labor. The FECA applies generally to civilian employees of the United States and, under section 8142 of title 5, United States Code, to Peace Corps volunteers during their term of service and provides, among other benefits, medical and compensation benefits for health problems and injuries sustained in the performance of duty.

Mr. President, although the FECA provides medical coverage to Peace Corps volunteers for their service-related health problems, it appears that many eligible volunteers may not be aware of their eligibility for FECA benefits. GAO found, based on a GAO survey of former volunteers, that from 10 to 30 percent of former volunteers had medical problems related to their Peace Corps service, and about 50 percent of them had not filed a FECA claim. Since the GAO report was issued and this provision was first passed by the Senate last year, the Peace Corps has initiated improvements in both disseminating information regarding FECA benefits and coordinating individual casework with DOL.

Section 4 would require that the Director of the Peace Corps and the Secretary of Labor jointly submit to the Senate Foreign Relations Committee and the House Foreign Affairs Committee a report on these issues. The report would focus on the coordination between the Peace Corps and Department of Labor in providing information to Peace Corp applicants and volunteers regarding the benefits and services to which they may be entitled, or for which they may be eligible, in the event they are injured or become disabled during service and in processing FECA claims filed by volunteers or trainees. The report would also be required to include recommendations to improve the information and services provided to Peace Corps volunteers and trainees in connection with FECA benefits. Requiring the two agencies to examine their coordination in providing information to applicants, trainees, and volunteers may result in improved services from both agencies for those who must pursue benefits under the FECA.

CONCLUSION

Mr. President, this legislation would make needed administrative and programmatic improvements in the Peace Corps' operations, and I urge all of my colleagues to support its passage.

## INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1993—CONFERENCE REPORT

Mr. EXON. Mr. President, I submit a report of the committee of conference on H.R. 5095 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 30, 1992.)

Mr. BOREN. Mr. President, the House of Representatives has approved the conference report on H.R. 5095, the Intelligence Authorization Act for fiscal

year 1993, and it has now arrived in the Senate for final action.

The conference report, in fact, does not depart significantly from the bill passed by the Senate several days ago. While several minor changes were adopted to title VII on intelligence organization to meet a few lingering concerns of the administration, the bill retains the basic provisions of the Senate bill, which, as I mentioned earlier, represent the most sweeping changes in the statutory framework for intelligence since 1947. It is a considerable achievement to have reached agreement on this measure, both in the Congress and with the administration, and I am very pleased to bring it to this body for final passage in this, my last year as chairman of the Intelligence Committee.

I also want to acknowledge the excellent contribution made by the House Permanent Select Committee on Intelligence in developing the comprehensive restatement of the law governing the CIA Retirement and Disability System, which is also contained in the conference report. Our experts believe it clarifies existing law and brings CIA's Retirement System in line with other Federal retirement programs.

Last, but perhaps most important of all, the conference report achieves a significant reduction in the budget for intelligence without sacrificing real strength or flexibility. We have cut back where it makes sense to cut back, but have preserved the capability we need to cope with a volatile and dramatically changing world. Further cuts may yet be desirable in the future, but I believe this year's bill represents a prudent beginning to downsizing U.S. intelligence capabilities. This process must be gradual and managed carefully, else we may find ourselves in need of lost capabilities which cannot be quickly rebuilt or can be rebuilt only at great cost.

This, then, Mr. President, brings me to what is likely to be my last official act as chairman of the Select Committee on Intelligence, final passage of the conference report on this year's authorization. It has been for me an interesting and rewarding 6 years. I think the committee's record of accomplishment speaks for itself. I thank my colleagues for their support and encouragement, and for allowing me the opportunity to have served in this capacity.

The PRESIDING OFFICER. Without objection, the conference report is agreed to.

So the conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

## HUMANITARIAN SITUATION IN SUDAN

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrent Resolution 140 submitted earlier today by Senators SIMON, KASSEBAUM, and others, relating to humanitarian relief and the human rights situation in Sudan; that the concurrent resolution be agreed to, the preamble be agreed to; and that the motions to reconsider be laid upon the table en bloc.

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

So the concurrent resolution (S. Con. Res. 140) was agreed to, as follows:

S. CON. RES. 140

Whereas the Government of Sudan engages in a consistent pattern of gross violations of internationally recognized human rights;

Whereas Sudanese military forces and the resistance movement, the Sudan Peoples' Liberation Army, are currently engaged in a battle for the southern capital of Juba without regard for the welfare of its civilian population, some 300,000 of whom are existing only on the intermittent provision of relief supplies;

Whereas the Government of Sudan is engaging in gross abuses of human rights elsewhere in the country, including a campaign of forced displacement of tens of thousands of Nuba from their ancestral homes in southern Kordofan Province, the destruction of Nuba villages, and the killing of hundreds of civilians;

Whereas the Government of Sudan has undertaken a cruel campaign to relocate some 500,000 internally displaced southerners and westerners from the outskirts of Khartoum to inhospitable camps far from the city, has announced plans to relocate an additional 250,000 in the coming months, and inhibited many international relief agencies from aiding the displaced;

Whereas the Government of Sudan has systematically harassed international relief agencies and workers whose only objective is to reduce suffering among Sudanese citizens in need;

Whereas the Government of Sudan is engaging in the imprisonment, torture, and execution of suspected dissidents across the country; and

Whereas, in September 1992, the Government of Sudan executed in Juba one and possibly two employees of the United States Agency for International Development after trials in which the victims had no possibility of appropriate counsel or appeal: Now, therefore, be it

*Resolved*, That the Senate (The House of Representatives concurring)

(1) condemns the egregious human rights abuses by the Government of Sudan and calls upon the Government of Sudan to cease its abuses of internationally recognized human rights and specifically—

(A) to allow free movement for all civilians who wish to leave the southern city of Juba and to cease the human rights abuses, including summary executions, of those civilians held against their will in Juba;

(B) to allow unrestricted and unconditional access for the International Committee of the Red Cross, United States officials, and other relief organizations to all parts of the country, including Juba;

(C) to guarantee the personal safety and security of all relief workers, including Sudanese employees of relief agencies working in Sudan;

(D) to provide a full accounting of the recent deaths of employees of the United States Agency for International Development in Juba;

(E) to cease its violent campaign of forced displacement of the Nuba people of Kordofan Province and the displaced people from Khartoum, to permit a greater number of international relief organizations to attend to their needs, and to initiate a process for just settlement of claims of those who have been relocated and whose homes and belongings have been destroyed;

(F) to permit international human rights groups to visit all areas of Sudan, including places of detention and displaced persons camps; and

(G) to lift the ban on the institutions of independent civil society such as the press and labor unions, and to restore freedom of speech and expression;

(2) calls upon the Sudan Peoples' Liberation Army to end its human rights abuses and interference with relief efforts; and

(3) calls upon the President to work with United Nations Secretary General Boutros Boutros-Ghali to convene a Security Council meeting to discuss the human rights situation in Sudan and to consider further international means, including within the United Nations system, to ameliorate the humanitarian situation in Sudan.

## THE HUMANITARIAN SITUATION IN SUDAN

Mr. SIMON. Mr. President, as the preeminent leader of the international community, the United States must take all means at its disposal to highlight the severe human rights abuses now occurring in Sudan. Three hundred thousand innocent civilians are now caught in a vice in the southern Sudanese city of Juba, where they are being used by the Sudanese military as human shields, or hostages, against a siege of the city being mounted by the opposing Sudan Peoples' Liberation Army. Elsewhere in Sudan, the government is conducting an ethnic cleansing operation against an indigenous group, the Nuba. Additionally, for months the Sudanese authorities have been pushing internally displaced people in the city of Khartoum out to woefully inadequate camps in the surrounding desert, virtually casting hundreds of thousands out to cling to life in the desert or die as the case may be. We must do all we can to let the world know of the cruelty and inhumanity of the Sudanese Government before it is too late for countless numbers of suffering people.

Some months ago I warned by colleagues on the Senate floor that while the situation in Bosnia-Hercegovina was indeed tragic, the world could not ignore similar but even more desperate human suffering in Somalia. After 10 months of writing letters, holding hearings, passing resolutions, making calls to the United Nations and to the administration, the international community, including the United States, has finally committed large-scale re-

sources to try to save millions from starvation in Somalia. Without pointing fingers at the guilty parties, it is critical that we learn from our mistakes in Somalia, where sufficient political will to help was absent until literally a few weeks ago. Now, the statistics in Somalia are staggering: perhaps as many as 2,000 people are dying daily, and truly gruesome pictures of human suffering reiterate the need for the United States and the international community to ensure that people are fed and the lives of innocent civilians protected. But because of our delay, even all of the resources committed to Somalia may not save hundreds of thousands of people from starvation.

We must not let such indifference occur again, this time in Sudan. I want to take this opportunity to send a signal to my colleagues, the administration, and the public that just as we are rightly concerned with the issue of ethnic cleansing in Bosnia, we must also focus our attention on similar abuses in Sudan. At the end of 1991, human rights groups and relief workers warned us that the Nuba peoples of southern Kordofan province faced the destruction of their ethnic identity. According to reports of Africa Watch and others, including the State Department, these abuses have worsened in 1992. The Sudan Government appears to have declared a holy war on the Nubians. While outside access to the Nuba Mountains has been tightly restricted, reliable information indicates a campaign of horrifying dimensions, with villages burned, people killed, and forcible relocation of the population from their ancestral homeland to camps in the northern part of the province.

Another disturbing action by the Sudanese officials is the relocation of some 500,000 internally displaced southerners and westerners from the outskirts of Khartoum to inhospitable camps far from the city. There are reports that an additional 250,000 will also be pushed out to the barren camps, where facilities for food, water, and shelter are reportedly wretched and incapable of handling such large numbers. Access to these camps by many international relief agencies has been severely restricted. We do not have a grasp yet of the scope of the suffering, but it is reasonably safe to say that the lives of all those in the camps is in jeopardy.

As if the situation with the displaced in the Khartoum region and among the Nuba were not bad enough, in the southern city of Juba, an additional 300,000 civilians have been forced by the Sudanese army into a small sector of the city to serve as hostages, or shields, against the opposing forces of the Sudan Peoples' Liberation Army, which is besieging the city. All foreign relief workers and missionaries were expelled from Juba in August, and they brought with them credible stories of summary executions conducted by the Sudan army against the captive civilians. In late September, the United States learned that one and possibly two of its local employees of USAID were executed in Juba, reportedly for treason. We do not know precisely who killed the USAID employees, but evidence points to the Sudan military. These two individuals, U.S. Government employees, were among 13 Sudanese nationals working with AID to alleviate suffering among those civilians entrapped in Juba.

The civilian hostages in Juba are fed by intermittent relief flights to Juba. If the relief supplies are cut off, there will be certain and early death for thousands among the captives too frail to endure prolonged suffering, such as children, the ill and the elderly. With a sustained cutoff of relief sources, all of the 300,000 lives are at risk.

The Khartoum displaced, the Nubas and the people of Juba cannot be ignored. We as Americans must lead in an international effort to focus attention on the human rights abuses being perpetrated by the authorities in Khartoum. I am introducing today in the Senate, with cosponsorship from my colleagues, Senators PELL, HELMS and KASSEBAUM, a resolution condemning the Sudan Government for its abuses and calling upon the President to work with the U.N. Secretary General to bring this issue up for debate in the Security Council. The introduction of this resolution on Sudan is but the first step; we must thereafter unite to keep the focus on Sudan, just as we have done in Bosnia and now in Somalia.

## NEW HAMPSHIRE-MAINE INTERSTATE SCHOOL COMPACT

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 4841, a bill granting the consent of the Congress to the New Hampshire-Maine interstate school compact, and that the Senate proceed to its immediate consideration; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

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

So the bill (H.R. 4841) was deemed read three times and passed.

## NEW HAMPSHIRE-MAINE INTERSTATE SCHOOL COMPACT

Mr. MITCHELL. Mr. President, I rise in support of H.R. 4841, a bill granting formal consent to two towns in Maine and New Hampshire to consider the creation of a unified interstate local school district.

This proposal needs congressional approval because of a Constitutional provision in article I:

> No state shall, without the consent of Congress, * * * enter into any agreement or compact with another state, or with a foreign power * * *.

This bill fulfills that constitutional requirement and allows the compact between Maine and New Hampshire to take effect. With its enactment, the State Education Commissioners can set up a planning committee to explore the possibility of a unified school district.

The movement for education reform and change is a grassroots movement throughout the Nation. Principals and teachers, parents and students alike are searching for innovative ways to improve local schools.

Movements for reform range from curriculum changes and innovative programs to the nuts and bolts of school operations in an effort to stretch scarce resources further, to use resources more efficiently.

One such effort is the one under way in Acton, ME, and Milton, NH, where both communities are exploring the possibility of an interstate unified school district. Such a district could save both communities money and allow a greater share of local resources to be devoted to improved instruction, equipment and curriculum.

The ultimate decision to create such a unified school district will be made by the people of the local communities directly affected, through a referendum.

But in order to hold that referendum, Acton and Milton need the formal consent of the Congress to consider an interstate school district. That legislation, H.R. 4841, is now before us.

It has been approved by the House of Representatives and will pass the Senate today. It will give the people of Acton, ME and the people of Milton, NH, the right to explore a promising avenue for administrative savings that could lead to reform and improvement in the local schools.

I am pleased that we are able to complete action on this measure in the 102d Congress, and I look forward with interest to the conclusions of the communities involved as they debate their unified school district proposal.

Mr. COHEN. Mr. President, I am pleased that the Senate is acting today on legislation to allow the development of a Maine-New Hampshire interstate school compact. This agreement has been negotiated for some time, and I now understand that the local towns and schools boards and the Maine and New Hampshire Departments of Education fully support this project.

Currently, the town of Acton, ME, pays tuition for its secondary students to go to the Wells-Ogunquit Community School District, almost 30 miles away. This arrangement, while perfectly acceptable in terms of the quality of education Acton's students receive at Wells High School, has re-

sulted in long hours of travel and high transportation costs, and has raised obstacles to students' participation in extracurricular activities.

This legislation, which has also been approved by the House of Representatives, will enable the towns of Acton, ME, and Milton, NH, to combine their resources and form school districts if such a combination should prove economically and educationally feasible. Discussions to date indicate that the appropriate local officials from both States are working cooperatively to develop a mutually acceptable plan to educate the area's students in grades 9–12. Such a plan could result in financial savings, as well as a more efficient use of educational resources.

Congressional ratification of the compact is only the first step in forming an interstate school district. Many issues have yet to be resolved, including the development of a curriculum that meets the requirements of both States. What happens from here is rightfully in the hands of the local governments, school boards, parents, and teachers. I am certain that this project will demonstrate why we have traditionally placed such confidence in local control of education, as Acton's and Milton's citizens are the best judges of the students' needs.

Mr. SMITH. Mr. President, I rise today in support of H.R. 4841, a bill to grant the consent of Congress to the New Hampshire-Maine interstate compact. Both States approved the compact in 1969 and have since awaited congressional action. I am pleased that our colleagues in the House have approved this measure, and I hope that we can finally conclude this process.

Some of my constituents have expressed to me their concerns that approval of this compact would mandate participation by communities in an interstate school district. This notion is incorrect; passage of this measure would merely allow those communities that wish to formulate interstate districts to do so.

This compact recognizes the expanded educational opportunities that may be offered by school districts that cross State borders. I believe that this legislation represents an important step for the children of New Hampshire and Maine.

I thank my colleagues for supporting this measure.

## NATIVE AMERICAN VETERANS' MEMORIAL ESTABLISHMENT ACT

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 752, S. 3157, a bill to provide for a National Native American Veterans' Memorial; that the committee amendments be agreed to; the bill be deemed read a third time and passed; and the motion to reconsider be laid upon the table.

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

So the bill (S. 3157) was passed, as follows:

*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 American Veterans' Memorial Establishment Act".

**SEC. 2. FINDINGS.**

The Congress finds that:

(1) Native Americans [of various Indian tribes] across the Nation, have a long, proud and distinguished tradition of service in the armed forces of the United States.

(2) Native Americans have historically served in the armed forces of the United States in numbers which far exceed their representation in the population of the United States.

(3) Native Americans have lost their lives in the service of their Nation, and in the cause of peace.

(4) The National Museum of the American Indian was established as a living memorial to Native Americans.

(5) The National Museum of the American Indian is an extraordinary site and is an ideal location to establish a National Native American Veterans' Memorial.

(6) A National Native American Veterans' Memorial would further the purposes of the National Museum of the American Indian by giving all Americans the opportunity to learn of the proud and courageous tradition of service of Native Americans in the armed forces of the United States.

**SEC. 3. AUTHORIZATION FOR ESTABLISHMENT OF MEMORIAL.**

(a) MEMORIAL.—The Board of Trustees of the National Museum of the American Indian is authorized to design, construct, and maintain a National Native American Veterans' Memorial (hereafter referred to in this section as the "Memorial").

(b) SITE.—The Board of Trustees shall select a suitable site for the Memorial. The site shall be located on a portion of the lands within the boundaries described in section 7(a) of the National Museum of the American Indian Act.

(c) DESIGN AND PLANS.—The Board of Trustees is authorized to hold a competition to select the design of the Memorial [Except as otherwise provided in this Act, the design, location, and construction of the Memorial shall be subject to the Act entitled "An Act to provide standards for replacement of commemorative works on Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).]

(d) DONATIONS.—Notwithstanding any other provision of law, the Board of Trustees many accept, retain, and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of designing, constructing, or maintaining the Memorial.

(e) PAYMENT OF EXPENSES.—The United States Government shall not pay any of the expenses of the establishment of the Memorial other than providing the site on which it is to be located.

***SEC. 4. DEFINITIONS.***

*As used in this Act:*

*(1) The term "Native American" means an Indian, a Native Hawaiian, and an Alaska Native.*

*(2) The term "Indian" means a member of an Indian Tribe.*

*(3) The term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.*

*(4) The term "Alaska Native" means any Eskimo, Aleut, or Alaska Indian.*

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

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

## ADVISORY COUNCIL OF CALIFORNIA INDIAN POLICY ACT OF 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calender No. 753, H.R. 2144, the California tribal status bill.

The Senate proceeded to consider the bill (H.R. 2144) to restore the Federal trust relationship of the United Auburn Indian Community, to establish the Advisory Council on California Indian Policy, and for other purposes, which had been reported from the Select Committee on Indian Affairs, 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 "Advisory Council on California Indian Policy Act of 1992".*

***SEC. 2. FINDINGS.***

*The Congress has reviewed the social, economic, and political circumstances of California Indians and of governmental policies and programs affecting California Indians and finds that—*

*(1) the Congress has recognized a special government-to-government relationship with Indian tribes in the United States;*

*(2) due to the unique historical circumstances of the Indians of California, Federal law and policies have often dealt specifically with California Indians;*

*(3) there is an urgent need to clarify the eligibility of unrecognized and terminated California Indian tribal groups to be federally acknowledged as Indian tribes with all the rights and powers attendant to that status;*

*(4) there is among California Indians a continuing social and economic crisis, characterized by, among other things, alcohol and substance abuse, critical health problems, family violence and child abuse, lack of educational and employment opportunities, and significant barriers to tribal economic development;*

*(5) these conditions exist even though public policies and programs adopted by the Federal Government have been intended to improve the conditions of California Indians; and*

*(6) California Indian tribes and tribal organizations have expressed a need for a review of the public policies and programs affecting California Indians and to make such policies and programs more effective in accomplishing Federal policy objectives.*

***SEC. 3. DEFINITIONS.***

*For purposes of this Act—*

*(1) The term "California Indian tribe" means any federally recognized or unacknowledged Indian tribe located in the State of California.*

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(4) The term "federally recognized Indian tribe" means any Indian tribe, band, group, or community that—

(A) has been federally recognized or acknowledged by the United States Government through an Act of Congress, a Federal judicial decision, or an administrative decision by the Secretary pursuant to part 83 of title 25, Code of Federal Regulations;

(B) was terminated by an Act of Congress and has been restored through an Act of Congress, a Federal judicial decision, an administrative determination or action by the Secretary; or

(C) is included, as of the date of the enactment of this Act, on the list of federally recognized tribes maintained by the Secretary.

(5) The term "unacknowledged Indian tribe" means any Indian tribe, band, group, or community that is not now federally acknowledged by the United States Government and has not been terminated by an Act of Congress.

(6) The term "terminated Indian tribe" means any Indian tribe, band, or community that has been terminated by an Act of Congress and has not been restored through an Act of Congress, a Federal judicial decision, or an administrative determination or action by the Secretary.

(7) The term "Council" means the Advisory Council on California Indian Policy established pursuant to section 4.

**SEC. 4. ESTABLISHMENT OF ADVISORY COUNCIL.**

(a) ESTABLISHMENT.—There is hereby established the Advisory Council on California Indian Policy.

(b) MEMBERS.—The Council shall be composed of 18 members who, other than the members provided for by paragraph (8), shall be appointed by the Secretary not later than 90 days after the date of the enactment of this Act as follows:

(1) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(2) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(3) Three tribal government representatives (or their designees) from the federally recognized Indian tribes located within the central California Agency area of the Bureau, including all field and subagencies.

(4) Three tribal government representatives (or their designees) from the unacknowledged Indian tribes located in the central California Agency area of the Bureau, including all field and subagencies.

(5) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(6) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(7) Two tribal government representatives (or their designees) from the terminated Indian tribes located within the northern, central, or southern California Agency areas of the Bureau, including all field and subagencies.

(8) The Area Director of the California Area Office of the Bureau and the Area Director of the California Area Office of the Indian Health Service who shall serve ex officio and as nonvoting members of the Council.

(c) RECOMMENDATIONS FROM CALIFORNIA INDIAN TRIBES.—In making appointments to the Council under subsection (b), the Secretary shall ensure that the California Indian tribes have been afforded a full and fair opportunity to select by consensus, in accordance with procedures developed by the California Indian tribes, representatives they will recommend to the Secretary for appointment to the Council, consult with the California Indian tribes; and make appointments to the Council from among those recommended or nominated by California Indian tribes.

(d) INITIAL MEETING.—The Council shall hold its first meeting by no later than the date that is 30 days after the date on which all members of the Council have been appointed.

(e) VACANCY.—Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner in which the original appointments were made.

(f) QUORUM.—Ten voting members shall constitute a quorum for the transaction of business, but a smaller number, as determined by the Council, may conduct hearings.

(g) CHAIRPERSON; VICE CHAIRPERSON.—The Council shall select a Chairperson, a Vice Chairperson, and such other officers as it deems necessary.

(h) COMPENSATION.—No compensation shall be paid to a member of the Council solely for his services on the Council. All members of the Council shall be reimbursed for travel expenses, including per diem in lieu of subsistence, during the performance of duties of the Council while away from home or their regular place of business in accordance with subchapter 1 of chapter 57 of title 5, United States Code.

**SEC. 5. DUTIES OF THE COUNCIL.**

The Council shall—

(1) develop a comprehensive list of California Indian tribes and the descendency list for each tribe based upon documents held by the Bureau including, but not limited to those specified in section 6;

(2) identify the special problems confronting unacknowledged and terminated Indian tribes and propose reasonable mechanisms to provide for the orderly and fair consideration of requests by such tribes for Federal acknowledgement;

(3) conduct a comprehensive study of—

(A) the social, economic, and political status of California Indians;

(B) the effectiveness of those policies and programs of the United States that affect California Indians; and

(C) the services and facilities being provided to California Indian tribes, compared to those being provided to Indian tribes nationwide;

(4) conduct public hearings on the subjects of such study;

(5) develop recommendations for specific actions that—

(A) will help to ensure that California Indians have life opportunities comparable to other American Indians of federally recognized tribes, while respecting their unique traditions, cultures, and special status as California Indians;

(B) will address, among other things, the needs of California Indians for economic self-sufficiency, improved levels of educational achievement, improved health status, and reduced incidence of social problems; and

(C) will respect the important cultural differences which characterize California Indians and California Indian tribes and tribal groups;

(6) submit, by no later than the date that is 18 months after the date of the first meeting of the Council, a report on the study conducted under paragraph (3) together with the proposals and recommendations developed under paragraphs (2) and (5) and such other information obtained pursuant to this section as the Council deems relevant, to the Congress, the Secretary, and the Secretary of Health and Human Services; and

(7) make such report available to California Indian tribes, tribal organizations, and the public.

**SEC. 6. ACCESS TO DESCENDENCY LISTS.**

The Secretary shall provide to the Council, not later than 30 days after the first meeting of the Council, the following documents:

(1) The rolls of California Indians developed in 1972 pursuant to the distribution of the Indian Claims Commission award of July 20, 1964, including but not limited to dockets Nos. 31, 37, 80, 80–D, and 347, and authorized by the Act of September 21, 1968 (82 Stat. 860).

(2) The rolls of California Indians developed in 1955 pursuant to the distribution of the 1944 United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602), as amended by the Act of June 30, 1948 (62 Stat. 1166), the Act of May 24, 1950 (64 Stat. 189), and the Act of June 8, 1954 (68 Stat. 240).

(3) The rolls of California Indians developed in 1933 pursuant to the distribution of the United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602).

(4) The lists and rolls of California Indians registered as Indian by the Bureau of Indian Affairs developed pursuant to section 19 of the Act of June 18, 1934 (48 Stat. 984).

(5) The lists and rolls of California Indians developed pursuant to the Acts of Congress terminating reservations and rancherias, including distributee rolls developed for the distribution of assets under the Act of August 18, 1958 (72 Stat. 619), the Act of July 10, 1957 (71 Stat. 283), and the Act of March 29, 1956 (70 Stat. 58).

(6) Any other rolls developed for Indian Claims Commission judgment awards covering any California land areas.

(7) Upon the consent of each tribe, the current tribal membership rolls of California Indian tribes, except that, nothing in this paragraph or any other provision of this Act shall be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by consent of such tribal government to the Council under this Act.

**SEC. 7. POWERS OF THE COUNCIL.**

(a) STAFF.—(1) Subject to such rules and regulations as may be adopted by the Council, the Chairperson of the Council shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to the number, classification, and General Schedule rates) of an Executive Director of the Council and of such other personnel as the Council deems advisable to assist in the performance of the duties of the Council, at rates not to exceed a rate equal to the maximum rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title.

(2) Service of an individual as a member of the Council shall not be considered as service or em-

*ployment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Council, or as an employee of the Council, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.*

*(b) ACTIONS.—The Council may hold such hearings and sit and act at such times, take such testimony, have such printing and binding done, enter into such contracts and other arrangements, make such expenditures, and take such other actions, as the Council may deem advisable provided, however, that no such action, contracting arrangement or expenditure be committed beyond the duration of the life of the Council pursuant to section 8. Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council.*

*(c) TASK FORCES.—The Council is authorized to establish task forces which include individuals who are not members of the Council only for the purpose of gathering information on specific subjects identified by the Council as requiring the knowledge and expertise of such individuals. Any task force established by the Council shall be chaired by a voting member of the Council who shall preside at any task force hearing authorized by the Council. No compensation (other than compensation and expenses authorized under section 4(h) to a member of the Council) may be paid to a member of a task force solely for his service on the task force, but the Council may authorize the reimbursement of members of a task force for travel expenses, including per diem in lieu of subsistence, during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter I of chapter 57 of title 5, United States Code. The Council shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Council staff and resources by a task force for the purpose of compiling data and information. Such data and information shall be for the exclusive use of the Council.*

*(d) FUNDING.—The Council is authorized to accept gifts of property, services, or funds and to expend funds derived from sources other than the Federal Government, including the State of California, private nonprofit organizations, corporations, or foundations which are determined appropriate and necessary to carry out the provisions of this title.*

*(e) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall not apply to the Council.*

*(f) COOPERATION OF FEDERAL AGENCIES.—(1) The Council is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Council may require to carry out the purposes of this title, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics, directly to the Council, upon request made by the Chairperson of the Council.*

*(2) Upon the request of the Council, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Council and detail any of the personnel of such department, agency, or instrumentality to the Council, on a nonreimbursable basis, to assist the Council in carrying out its duties under this title.*

*(3) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.*

*(g) NO INFRINGEMENT ON TRIBAL AUTHORITY.—The creation of the Council is not intended to, nor shall it, restrict, preempt or infringe the right of any California Indian tribe to interact or communicate with Congress or other branches of the Federal Government on a government-to-government basis.*

***SEC. 8. TERMINATION.***

*The Council shall cease to exist on the date that is 180 days after the date on which the Council submits the report required under section 5(6). All records, documents, and materials of the Council shall be transferred to the National Archives and Records Administration on the date on which the Council ceases to exist.*

***SEC. 9. AUTHORIZATION OF APPROPRIATIONS.***

*There are authorized to be appropriated $700,000 to carry out the provisions of this Act. Such sums shall remain available, without fiscal year limitation, until expended.*

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "An Act to establish the Advisory Council on California Indian Policy, and for other purposes.".

## CANCER REGISTRIES AMENDMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3312, a bill introduced earlier today by Senator LEAHY and others dealing with the establishment of a uniform system of statewide cancer registries; that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

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

Mr. LEAHY. Mr. President, 20 years ago Congress and the President declared war on cancer. That started the Nation on an aggressive campaign of research and cancer control efforts aimed at eradicating this dreaded disease.

We have made significant progress. Overall survival rates have improved, especially among children. Yet today, one in three Americans will be diagnosed with cancer. One in five will die of this harsh disease.

It is time to take a fresh look at our National Cancer Program and put together a new plan to carry us into the next century. Today, the Senate will pass legislation that adds a very potent weapon to that plan. It is the Cancer Registries Amendment Act of 1992 which Congressman SANDERS and I introduced earlier this year.

Our bill sets up a national system of cancer registries that will give researchers the information they need to fight this disease. Many of our States lack statewide cancer registries that record data on the incidence, stage and treatment of cancer. This information is precisely what our researchers say they need to better understand the causes of cancer and how to control it.

The Leahy-Sanders cancer registries bill provides $30 million a year to States to establish or upgrade their cancer registry systems. Planning grants are available to States currently without registries.

Mr. President, our bill also takes aim at one particular cancer that has reached epidemic proportions—breast cancer. Every 3 minutes another American woman will be diagnosed with the disease. Every 12 minutes, another woman in this country will die.

For reasons we do not know, breast cancer death rates are higher for women in Vermont and other Northeastern States than in other parts of the country. Our bill launches a 5-year comprehensive study to find out why this is.

Mr. President, the cancer registries bill passed the Senate earlier this year with overwhelming, bipartisan support as part of the National Institutes of Health reauthorization bill. But President Bush vetoed that important legislation because of his unreasonable opposition to fetal tissue research—research that holds great promise for the treatment and cure of diseases like Alzheimer's, Parkinson's, and juvenile diabetes.

That veto was a bitter disappointment to me and millions of Americans across this country because it sent a signal to us that election year politics is more important than people's lives.

I applaud the Senate for passing the Cancer Registries bill today and taking an important step in bolstering our efforts against cancer. Congressman SANDERS and I are working hard to see that the House takes up this legislation, too, and passes it quickly so that we can get it to the President for his signature.

Mr. President, the Cancer Registries bill has been called the cancer weapon America needs most. The families in this country that have been touched by cancer, and the millions more that face it, should not have to wait another day for this help.

Mr. President, I ask unanimous consent that the bill as amended be printed in the RECORD.

So, the bill (S. 3312) was read a third time, and passed as follows:

S. 3312

*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 "Cancer Registries Amendment Act".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) cancer control efforts, including prevention and early detection, are best addressed

locally by State health departments that can identify unique needs;

(2) cancer control programs and existing statewide population-based cancer registries have identified cancer incidence and cancer mortality rates that indicate the burden of cancer for Americans is substantial and varies widely by geographic location and by ethnicity;

(3) statewide cancer incidence and cancer mortality data, can be used to identify cancer trends, patterns, and variation for directing cancer control intervention;

(4) the American Association of Central Cancer Registries (AACCR) cites that of the 50 States, approximately 38 have established cancer registries, many are not statewide and 10 have no cancer registry; and

(5) AACCR also cites that of the 50 States, 39 collect data on less than 100 percent of their population, and less than half have adequate resources for insuring minimum standards for quality and for completeness of case information.

(b) PURPOSE.—It is the purpose of this Act to establish a national program of cancer registries.

**SEC. 3. NATIONAL PROGRAM OF CANCER REGISTRIES.**

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

"PART M—NATIONAL PROGRAM OF CANCER REGISTRIES

**"SEC. 399H. NATIONAL PROGRAM OF CANCER REGISTRIES.**

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States, or may make grants or enter into contracts with academic or nonprofit organizations designated by the State to operate the State's cancer registry in lieu of making a grant directly to the State, to support the operation of population-based, statewide cancer registries in order to collect, for each form of in-situ and invasive cancer (with the exception of basal cell and squamous cell carcinoma of the skin), data concerning—

"(1) demographic information about each case of cancer;

"(2) information on the industrial or occupational history of the individuals with the cancers, to the extent such information is available from the same record;

"(3) administrative information, including date of diagnosis and source of information;

"(4) pathological data characterizing the cancer, including the cancer site, stage of disease (pursuant to Staging Guide), incidence, and type of treatment; and

"(5) other elements determined appropriate by the Secretary.

"(b) MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State, or the academic or nonprofit private organization designated by the State to operate the cancer registry of the State, involved agrees, with respect to the costs of the program, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs or $1 for every $3 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION; MAINTENANCE OF EFFORT.—

"(A) Non-Federal contributions required in paragraph (1) 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) With respect to a State in which the purpose described in subsection (a) is to be carried out, the Secretary, in making a determination of the amount of non-Federal contributions provided under paragraph (1), may include only such contributions as are in excess of the amount of such contributions made by the State toward the collection of data on cancer for the fiscal year preceding the first year for which a grant under subsection (a) is made with respect to the State. The Secretary may decrease the amount of non-Federal contributions that otherwise would have been required by this subsection in those cases in which the State can demonstrate that decreasing such amount is appropriate because of financial hardship.

"(c) ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—No grant shall be made by the Secretary under subsection (a) unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such a manner, and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and in accordance with the requirements of this section, that the application will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under subsection (a) of this section, and that the applicant will comply with the peer review requirements under sections 491 and 492.

"(2) ASSURANCES.—Each applicant, prior to receiving Federal funds under subsection (a), shall provide assurances satisfactory to the Secretary that the applicant will—

"(A) provide for the establishment of a registry in accordance with subsection (a);

"(B) comply with appropriate standards of completeness, timeliness, and quality of population-based cancer registry data;

"(C) provide for the annual publication of reports of cancer data under subsection (a); and

"(D) provide for the authorization under State law of the statewide cancer registry, including promulgation of regulations providing—

"(i) a means to assure complete reporting of cancer cases (as described in subsection (a)) to the statewide cancer registry by hospitals or other facilities providing screening, diagnostic or therapeutic services to patients with respect to cancer;

"(ii) a means to assure the complete reporting of cancer cases (as defined in subsection (a)) to the statewide cancer registry by physicians, surgeons, and all other health care practitioners diagnosing or providing treatment for cancer patients, except for cases directly referred to or previously admitted to a hospital or other facility providing screening, diagnostic or therapeutic services to patients in that State and reported by those facilities;

"(iii) a means for the statewide cancer registry to access all records of physicians and surgeons, hospitals, outpatient clinics, nursing homes, and all other facilities, individuals, or agencies providing such services to patients which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified patient;

"(iv) for the reporting of cancer case data to the statewide cancer registry in such a format, with such data elements, and in accordance with such standards of quality timeliness and completeness, as may be established by the Secretary;

"(v) for the protection of the confidentiality of all cancer case data reported to the statewide cancer registry, including a prohibition on disclosure to any person of information reported to the statewide cancer registry that identifies, or could lead to the identification of, an individual cancer patient, except for disclosure to other State cancer registries and local and State health officers;

"(vi) for a means by which confidential case data may in accordance with State law be disclosed to cancer researchers for the purposes of cancer prevention, control and research;

"(vii) for the authorization or the conduct, by the statewide cancer registry or other persons and organizations, of studies utilizing statewide cancer registry data, including studies of the sources and causes of cancer, evaluations of the cost, quality, efficacy, and appropriateness of diagnostic, therapeutic, rehabilitative, and preventative services and programs relating to cancer, and any other clinical, epidemiological, or other cancer research; and

"(viii) for protection for individuals complying with the law, including provisions specifying that no person shall be held liable in any civil action with respect to a cancer case report provided to the statewide cancer registry, or with respect to access to cancer case information provided to the statewide cancer registry.

"(d) RELATIONSHIP TO CERTAIN PROGRAMS.—

"(1) IN GENERAL.—This section may not be construed to act as a replacement for or diminishment of the program carried out by the Director of the National Cancer Institute and designated by such Director as the Surveillance, Epidemiology, and End Results Program (SEER).

"(2) SUPPLANTING OF ACTIVITIES.—In areas where both such programs exist, the Secretary shall ensure that SEER support is not supplanted and that any additional activities are consistent with the guidelines provided for in subsection (c)(2)(C) and (D) and are appropriately coordinated with the existing SEER program.

"(3) TRANSFER OF RESPONSIBILITY.—The Secretary may not transfer administration responsibility for such SEER program from such Director.

"(4) COORDINATION.—To encourage the greatest possible efficiency and effectiveness of Federally supported efforts with respect to the activities described in this subsection, the Secretary shall take steps to assure the appropriate coordination of programs supported under this part with existing Federally supported cancer registry programs.

"(e) REQUIREMENT REGARDING CERTAIN STUDY ON BREAST CANCER.—In the case of a grant under subsection (a) to any State specified in section 399K(b), the Secretary may establish such conditions regarding the receipt of the grant as the Secretary determines are necessary to facilitate the collection of data for the study carried out under section 399C.

**"SEC. 399I. PLANNING GRANTS REGARDING REGISTRIES.**

"(a) IN GENERAL.—

"(1) STATES.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States for

the purpose of developing plans that meet the assurances required by the Secretary under section 399B(c)(2).

"(2) OTHER ENTITIES.—For the purpose described in paragraph (1), the Secretary may make grants to public entities other than States and to nonprofit private entities. Such a grant may be made to an entity only if the State in which the purpose is to be carried out has certified that the State approves the entity as qualified to carry out the purpose.

"(b) APPLICATION.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary, the application contains the certification required in subsection (a)(2) (if the application is for a grant under such subsection), 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.

**"SEC. 399J. TECHNICAL ASSISTANCE IN OPERATIONS OF STATEWIDE CANCER REGISTRIES.**

"The Secretary, acting through the Director of the Centers for Disease Control, may, directly or through grants and contracts, or both, provide technical assistance to the States in the establishment and operation of statewide registries, including assistance in the development of model legislation for statewide cancer registries and assistance in establishing a computerized reporting and data processing system.

**"SEC. 399K. STUDY IN CERTAIN STATES TO DETERMINE THE FACTORS CONTRIBUTING TO THE ELEVATED BREAST CANCER MORTALITY RATES.**

"(a) IN GENERAL.—Subject to subsections (c) and (d), the Secretary, acting through the Director of the National Cancer Institute, shall conduct a study for the purpose of determining the factors contributing to the fact that breast cancer mortality rates in the States specified in subsection (b) are elevated compared to rates in other States.

"(b) RELEVANT STATES.—The States referred to in subsection (a) are Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia.

"(c) COOPERATION OF STATE.—The Secretary may conduct the study required in subsection (a) in a State only if the State agrees to cooperate with the Secretary in the conduct of the study, including providing information from any registry operated by the State pursuant to section 399H(a).

"(d) PLANNING, COMMENCEMENT, AND DURATION.—The Secretary shall, during each of the fiscal years 1993 and 1994, develop a plan for conducting the study required in subsection (a). The study shall be initiated by the Secretary not later than fiscal year 1994, and the collection of data under the study may continue through fiscal year 1998.

"(e) REPORT.—Not later than September 30, 1999, 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 and recommendations made as a result of the study.

**"SEC. 399L. AUTHORIZATION OF APPROPRIATIONS.**

"(a) REGISTRIES.—For the purpose of carrying out this part, there are authorized to be appropriated $30,000,000 for each of the fiscal years 1993 through 1997. Out of any amounts appropriated for any such fiscal year, the Secretary may obligate not more than 25 percent for carrying out section 399I, and not more than 10 percent may be expended for assessing the accuracy, completeness and quality of data collected, and not more than 10 percent of which is to be expended under subsection 399J.

"(b) BREAST CANCER STUDY.—Of the amounts appropriated for the National Cancer Institute under subpart 1 of part C of title IV for any fiscal year in which the study required in section 399K is being carried out, the Secretary shall expend not less than $1,000,000 for the study.".

## THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration en bloc of the following calendar items, Calendar Nos. 627, 765, 766, 768, and 769; that, where appropriate, the committee amendments be agreed to; the resolutions and preambles be agreed to; that the motions to reconsider be laid upon the table en bloc, and that any statements thereon appear in the RECORD at the appropriate place as though read.

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

## COMMENDING THE PEOPLE OF THE PHILIPPINES ON SUCCESSFUL DEMOCRATIC ELECTIONS

The concurrent resolution (S. Con. Res. 134) to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines, was considered, and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 134

Whereas achieving the first peaceful and constitutional succession of elected presidents is one of the most difficult and important steps in the establishment of democratic government;

Whereas the Philippines, under the leadership of President Corazon Aquino, has successfully completed this democratic transition and, thereby, secured the final victory of the 1986 Peoples Power Revolution;

Whereas Fidel Ramos was a key participant in the 1986 Peoples Power Revolution that ended the Marcos Dictatorship, and subsequently played a crucial role in opposing 6 abortive coup attempts that threatened to overthrow the democratically elected government;

Whereas newly-elected President Fidel Ramos will face the important challenge of continuing the difficult economic and political reforms begun by his predecessor;

Whereas despite a series of natural disasters (including earthquakes, typhoons, and volcanic eruption), the Philippine economy has turned from annual contraction under the previous regime to a yearly growth rate of 3 to 4 percent;

Whereas the American people can be proud of the role the United States has played in helping Filipinos succeed in the reestablishment of democracy in their country and in beginning free market economic reforms; and

Whereas despite the withdrawal of United States Armed Forces from Clark Air Field and Subic Bay Naval Station, the United States and the Philippines continue to be bound together by their Mutual Defense Treaty and to share important security interests in the region: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That in light of the continued strong security and economic interests shared by the United States and the Philippines as well as our deep cultural and historic ties, the Congress—

(1) congratulates Fidel Ramos on his election to the Presidency of the Philippines;

(2) commends the people of the Philippines for institutionalizing democratic government in their country by supporting peaceful and constitutional elections;

(3) urges the President of the United States to support strongly continued economic and political reform by the new Philippine Government; and

(4) believes a new era has begun in the United States-Philippine relations and recommends that a post-bases relationship be built on the cooperative pursuit of mutually beneficial goals.

## EXTRADITION OF ALOIS BRUNNER

The resolution (S. Res. 150) expressing the sense of the Senate urging the President to call on the President of Syria to permit the extradition of fugitive Nazi war criminal Alois Brunner, was considered and agreed to.

The preamble was agreed to.

The resolution and the preamble are as follows:

S. RES. 150

Whereas Austrian-born Alois Brunner, who joined the Nazi party at the age of nineteen, was the deputy and personal secretary to Adolf Eichmann, who was personally responsible for sending to their deaths more than one hundred and twenty thousand Jews from Austria, Germany, France, Slovakia, and Greece;

Whereas, in 1938, after Kristallnacht, Brunner joined the Nazi Secret Police and subsequently requested a transfer to the Central Office for Jewish Emigration in Vienna, where he began his career in genocide as Eichmann's personal secretary;

Whereas Brunner helped execute Eichmann's plan for the Final Solution;

Whereas Brunner was particularly brutal toward French Jews, sending to their deaths more than two hundred children from Jewish-operated orphanages, including thirty-four children from Louviciennes;

Whereas, in 1954, Brunner was sentenced to death in absentia by French courts in Paris and Marseilles for crimes against humanity;

Whereas, since 1955, Brunner has lived in Damascus, Syria, under the protection of the Syrian Government and Syrian bodyguards and has assumed the name of Dr. Georg Fischer;

Whereas it is well known that Brunner lives in an apartment at 7 Rue Haddad in Damascus;

Whereas the Syrian Government has frequently denied that Brunner lives in Syria; and

Whereas attempts by Austria and Germany to secure Brunner's extradition from Syria have been unsuccessful: Now, therefore, be it

*Resolved*, That the Senate urges the President to call on the President of Syria to permit the extradition of the fugitive Nazi war criminal Alois Brunner for trial in Germany.

## RELATING TO THE CAPTURE OF ABIMAEL GUZMAN

The resolution (S. Res. 346) to express the sense of the Senate regarding the capture on September 12, 1992, of the Peruvian communist and terrorist leader, Abimael Guzman, and for other purposes, was considered and agreed to.

The preamble was agreed to.

The resolution and the preamble are as follows:

S. RES. 346

Whereas Abimael Guzman is the leader of the Maoist communist, terrorist group known as Shining Path;

Whereas Shining Path declared war on the Government of Peru in 1980, and, since that time, has been responsible for tremendous economic devastation and terror and contributed to the death of more than twenty five thousand Peruvian men, women, and children;

Whereas nearly two-thirds of the world supply of cocaine is produced from coca leaf growth in Peru;

Whereas Shining Path promotes and profits from the consumption of illicit narcotics in the United States;

Whereas Shining Path provided armed protection for narcotics traffickers in the Upper Huallaga Valley of Peru;

Whereas Abimael Guzman was captured by the members of the Peruvian Counter-Terrorism National Directorate of the Technical Police of the Government of Peru on September 12, 1992;

Whereas the capture of Abimael Guzman resulted from careful intelligence work carried out under hazardous conditions;

Whereas the capture of Abimael Guzman and several of his immediate subordinates represents an important victory for the Government of Peru in the fight of that government against terrorism and international narcotics trafficking;

Whereas the capture of Abimael Guzman is an important step in the fight against violent anti-democratic forces that have undermined constitutional government in Peru;

Whereas the United States Government has been concerned with the April 5, 1992, decision of President Fujimori of Peru to dissolve the Congress and judiciary of the Government of Peru and to rule by decree; and

Whereas the United States Government has encouraged President Fujimori to move expeditiously to restore constitutional democracy in Peru: Now, therefore, be it

*Resolved*, That the Senate hereby—

(1) supports the Government of Peru in its determination to fight the violent, anti-democratic terrorist group known as Shining Path;

(2) commends and congratulates the members of the Peruvian Counter-Terrorism National Directorate of the Technical Police who conceived and executed the plan to capture Abimael Guzman, the leader of Shining Path, and several of his immediate subordinates;

(3) encourages the people in all sectors of Peruvian society to commit themselves to the long-term process of overcoming the ravaging social effects of the activities of Shining Path and creating the necessary conditions for the maintenance of a viable constitutional democracy and viable economy in Peru;

(4) encourages the Government of Peru to hold free and fair elections for a constituent assembly on November 22, 1992, under international supervision by the Organization of American States; and

(5) encourages the Government of Peru to continue its efforts to fight terrorism and international narcotics trafficking and to establish the rule of law throughout Peru.

## PERU AND THE CAPTURE OF ABIMAEL GUZMAN

Mr. COATS. Mr. President, I am pleased to congratulate the Government of Peru for the capture of terrorist leader Abimael Guzman, on September 12, by members of Peru's Counter-Terrorism Directorate.

Abimael Guzman's terrorist group, Sendero Luminoso, or Shining Path as it is known in English, has shaken Peru's fragile democracy, and has instilled fear in every Peruvian. Since 1980, the Shining Path's terror campaign has cost over 25,000 lives and resulted in $20 billion in economic damage.

Today, people throughout the hemisphere are relieved that Abimael Guzman—the leader of Shining Path—is behind bars in a Lima prison, and is standing trial.

Guzman wants to impose a Communist dictatorship on Peru. A Marxist philosophy professor in a province of Peru, Guzman went to China in 1965, just as it was beginning its cultural revolution. There, he was instructed in the people's war doctrine of Mao Tse Dong, and in how to organize clandestine political and terrorist activity.

When Guzman returned to Peru, he became a leader of the pro-Chinese faction of the Communist Party of Peru. By 1970, he had formed the Shining Path on the precept that Peruvian society had to be absolutely razed to the ground, before it could be recreated in his own image.

Shining Path quickly became a cult of mass murderers. In 1976, Guzman's followers were already training with weapons. By 1980, just as President Belaunde was reestablishing democracy in Peru, Shining Path declared war against the Peruvian people.

Five thousand armed guerrillas ultimately came under Guzman's spell. Guzman tells his followers to idolize Stalin and Mao. He teaches them that the Russians, Cubans, and even the People's Republic of China and North Korea are weak and not true Communists. Guzman tells his followers that they have to "cross a river of blood" in order to build Peru's new society and kill over 1 million Peruvians.

Even more alarming, Guzman's aims extend far beyond Peru. Shining Path seeks to reunite the old Inca Empire. Guzman's terrorists threaten not only Peru, but Ecuador, Colombia, and Bolivia as well.

Mr. President, like so many of the Communist terrorist groups which have plagued Latin America, Shining Path, under Guzman's leadership, finances itself with the proceeds from narcotics trafficking—the trade which has destroyed so many of the young people in the United States.

Peru produces over 60 percent of the world's coca supply, and most of that coca is produced in the Upper Huallaga Valley. By 1986, the Shining Path terrorists gained control of much of the Upper Huallaga Valley. Now they charge both the coca growers and the narcotics traffickers in the valley for protection from their guerrillas. In this way, Shining Path now has steady revenue of up to $100 million annually, and it has access to highly sophisticated war materiel and explosives.

Untold massacres by Peru's Shining Path have driven millions of peasants to flee to the shanty towns around Lima and Peru's other major cities. Car bombs have turned many of Lima's buildings into pockmarked shells. In its July 1992 offensive alone, Shining Path made 293 attacks throughout Peru that left 179 people dead and thousands of other people wounded and homeless. Shining Path epitomizes the connection between terrorism and drugs, death and destruction.

For 12 years, many foreign observers believed that the Shining Path terrorists could not be stopped by the Peruvian authorities. When President Fujimori came to power and vowed to end the menace of Shining Path by 1995, many of his critics scoffed.

Mr. President, the tools the Peruvian Government has at its disposal are inadequate. Most of its soldiers have little counterinsurgency training, few bullets for their weapons, and are paid less than $50 a month.

However, President Fujimori has quietly and methodically laid the groundwork for a counterterrorism strategy which has already begun to pay dividends. Fujimori has streamlined the trial and sentencing process. He has toughened sentences for convicted terrorists and drug traffickers. He has taken steps to overhaul the prison system.

Fujimori has stressed strong intelligence and police detective work, and has tried to capture the terrorist leaders. Even before Guzman was captured, Victor Polay, the leader of Peru's other major terrorist group, the Tupac Amaru Revolutionary Movement, was behind bars.

In fact, Guzman's capture was made possible, in part, because of the previous capture of members of the Shining Path's intelligence apparatus. Such notable Shining Path figures as Elena Iparraguirre, Guzman's second in commnd; German Sipian, Shining Path's national coordinator; and Gilberto Iparraguirre, the head of Shining Path's main hit squad in Lima, have been captured in recent weeks and are all behind bars and awaiting trial.

Abimael Guzman is called the Fourth Sword of Marxism and considered infallible by his fanatical followers. Guzman's capture has destroyed this

myth and revealed this man for what he is: a narcoterrorist and a petty would-be tyrant. Peru's police authorities have decapitated the leadership of Shining Path, and restored some measure of confidence to the people of Peru.

Mr. President, now comes the true test of the policies which President Fujimori has implemented. Can his government hold Guzman? Can it resist corrupt attempts to buy off officials which allow Guzman to escape? Can the Peruvian Government keep Guzman from operating his narcoterrorism ring from his jail cell? I hope so.

Just as President Fujimori is tackling the Shining Path terrorists, so he is attempting to turn around the country's economy. Every member of this body hopes that President Fujimori will firmly establish democracy in Peru. The Peruvian people appear to overwhelmingly support his efforts, and they have continually expressed their approval of his struggle against the terrorists and the drug traffickers. Peru is now laying the foundation for a free and more democratic society. Hopefully, the Peruvians will celebrate another victory on November 22, when they elect a Constituent Congress and begin their work to restore constitutional democracy.

Mr. President, in Peru, we are watching a brave people struggle against seemingly impossible odds. When they've made mistakes, we've let them know about it. When they've needed help, we've given aid, but the Peruvian people have borne the brunt of Sendero's ferocious onslaught and the world has understood little about the ordeal that they have had to undergo.

But the Peruvians have not given up. Despite all their difficulties, they are still fighting for freedom from the terror of drugs and terrorism. They have earned their tremendous victories against the terrorist Abimael Guzman and his followers.

Mr. President, I believe that it is important that we stand up and support publicly those countries who score successes in the war against drugs and terrorism. That is why I offered this amendment.

I specifically want to thank the senior senator from Connecticut for working with me on this amendment. And I thank my colleagues for their bipartisan support.

## COMMENDING THE PEOPLE OF THAILAND

The resolution (S. Res. 351) to commend the people of Thailand for successfully conducting peaceful general elections and to congratulate Thailand's prodemocracy parties on their victory, was considered and agreed to.

The preamble was agreed to.

The resolution and the preamble are as follows:

S. RES. 351

Whereas on February 23, 1991, a military coup overthrew the democratically elected Government of the Kingdom of Thailand;

Whereas in May 1992, following general elections, Thai citizens in Bangkok peacefully demonstrated against General Suchinda Kraprayoon's appointment as nonelected Prime Minister;

Whereas these unarmed protesters were suppressed violently by Thai military and police forces, ending with the death of forty eight demonstrators, the injury of hundreds, and the disappearance of as many as two hundred and sixty two;

Whereas the steadfast protests led to the resignation of General Suchinda and the establishment of an interim government charged with holding new free and fair general elections;

Whereas in June 1992 the caretaker government ordered an official investigation into the May violence and later removed four senior military officers found responsible for ordering the use of force against the peaceful demonstrators; and

Whereas new elections were held as scheduled on September 13, 1992, with 62 percent of eligible voters participating: Now, therefore, be it

*Resolved*, That, the Senate—

(1) commends the people of Thailand for their commitment to civilian democracy by supporting peaceful and constitutional elections;

(2) commends Thailand's interim government on its leadership in investigating the May 1992 violence and upholding its commitment to conducting fair elections;

(3) congratulates Thailand's four pro-democracy parties on their victory;

(4) encourages the new government of Thailand to complete the official investigation in the May 1992 events; and

(5) supports resuming United States foreign economic assistance to Thailand once the newly elected government has taken office.

## ONGOING VIOLENCE IN SOUTH AFRICA

The Senate proceeded to consider the resolution (S. Res. 301) relating to ongoing violence connected with apartheid in South Africa, which had been reported from the Committee on Foreign Relations with amendments.

The amendments were agreed to.

The resolution, as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble as amended was agreed to.

The resolution, as amended, and the preamble, as amended, are as follows:

S. RES. 301

Whereas more than 11,000 people have died in South Africa as a result of political violence since 1984, and more than one-half of these have died since the release of Nelson Mandela from prison in 1990;

Whereas the negotiations by the Convention for a Democratic South Africa (CODESA) on the formation of a transitional government that will lead to a new constitution and a nonracial, democratic government could be undermined by the continuing violence;

Whereas the terror perpetuated by the ongoing political violence jeopardizes the willingness of South Africans to participate in the transition process and compromises the climate for free political participation by all South Africans; and

Whereas the Goldstone Commission of Inquiry into Public Violence and Intimidation has acknowledged that all parties bear some responsibility for the violence in South Africa.

Whereas credible evidence has been presented to the Goldstone Commission of Inquiry into Public Violence and Intimidation, South African human rights organizations, Amnesty International, and others that members of South African security force units have trained, armed, and funded paramilitary groups involved in committing and instigating violence, and perhaps continue to do so: Now, therefore, be it

*Resolved*, That (a) the Senate hereby—

(1) notes with dismay the killings in South Africa and condemns this senseless violence; and

(2) urges all political organizations and other signatories of the Peace Accord to take concrete steps to end the violence.

(3) Urges the Government of South Africa to take effective steps to end the violence and protect all South African citizens regardless of race, color, or creed.

(4) Expresses the strong support for the efforts of the Goldstone Commission of Inquiry into Violence and Intimidation, and calls on all parties to adhere to its recommendations.

(b) It is the sense of the Senate that the President should prepare and transmit to the Senate a report on—

(1) the nature of the violence in South Africa and the role that the various participants are playing in the ongoing violence; and

(2) the impact of this violence on South Africa's transition to democracy; and

(3) recommendations for actions to be taken by the U.S. to support the ending of political violence.

## INDIAN AGRICULTURAL RESOURCES MANAGEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar 754, S. 2977, the Indian Agricultural Resources Management Act of 1992.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2977) 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.

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 Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Indian Agricultural Resources Management Act of 1992".*

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS
Sec. 101. Findings.
Sec. 102. Purposes.
Sec. 103. Definitions.
TITLE II—RANGELAND AND FARMLAND ENHANCEMENT
Sec. 201. Management of Indian rangelands and farmlands.
Sec. 202. Indian participation in land management activities.
Sec. 203. Comparative analysis of Indian rangeland and farmland management programs.
Sec. 204. Leasing of Indian rangelands and farmlands.
TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT
Sec. 301. Establishment of Indian and Alaska Native agriculture and natural resources management education assistance program.
Sec. 302. Postgraduation recruitment, education and training programs.
Sec. 303. Cooperative agreement between the Department of the Interior and Indian tribes.
Sec. 304. Obligated service; breach of contract.
TITLE IV—AUTHORIZATION OF APPROPRIATIONS
Sec. 401. Authorizations.
TITLE V—MISCELLANEOUS
Sec. 501. Regulations.
Sec. 502. Severability.
Sec. 503. Trust responsibility.
Sec. 504. Miscellaneous.

## TITLE I—GENERAL PROVISIONS

**SEC. 101. FINDINGS.**

(a) FINDINGS.—The Congress finds and declares that—

(1) Indian rangelands and farmlands are renewable and manageable natural resources that are among the most valuable Indian assets and are vital to the economic and social welfare of individual Indians and Indian tribes.

(2) Increased development and intensive management of Indian rangelands and farmlands will produce increased economic returns, enhance Indian self-determination, promote employment opportunities, and improve the social and economic well-being of Indian and surrounding communities.

(3) The United States has a trust responsibility to protect, conserve and enhance Indian rangelands and farmlands consistent with its fiduciary obligation and its unique relationship with Indian tribes and extends to all Federal agencies.

(4) Existing Federal laws do not sufficiently assure the adequate and necessary trust management of Indian rangelands and farmlands.

(5) The Federal investment in, and the management of Indian rangelands and farmlands is significantly below the level of investment in, and management of, rangelands and farmlands under the administration of the Bureau of Lands Management, Bureau of Reclamation, the National Forest Service, and private landowners.

(6) The beneficial use of Indian rangelands and farmlands by Indians is in serious decline throughout Indian country.

(7) Despite the Federal policy of Indian self-determination, Federal laws and policies have limited the authority and ability of tribal governments and Indian communities to develop land-based programs on the basis of local priorities.

**SEC. 102. PURPOSES.**

The purposes of this Act are to:

(1) Promote and increase and enable the opportunities for Indian use of their own resources so as to use Indian natural and human resources to achieve tribal goals, to decrease idle or underutilized land, reverse the damaging long-term losses in productivity and land values, and increase local employment opportunities, community income, and social stability.

(2) Safeguard the investments made in Indian rangelands and farmlands and agricultural enterprises and provide adequate, stable, and secure authority for the protection, conservation, utilization, and enhancement of Indian rangeland and farmland resources.

(3) Support and improve tribal self-determination by authorizing and facilitating the active tribal participation in the management decision-making processes on the allocation and use of local natural resources.

(4) Improve Indian access to Federal agriculture, rural development and related programs which are available to the American society at large through the various departments of the Federal Government.

(5) Provide for the development and management of Indian rangelands and farmlands at a level at least commensurate with the level of development and management afforded to federally owned or controlled lands.

(6) Meet the trust responsibility of the United States and promote self-determination of Indian tribes by managing Indian rangelands and farmlands and related renewable resources in a manner consistent with identified tribal goals and priorities, and nationally adopted multiple use and sustained yield principles.

(7) Increase the educational and training opportunities available to Indian people and communities in the practical, technical and professional aspects of agriculture, natural resources, and land management to improve local expertise and technical abilities and create a cadre of professional Indian agriculture resource managers who can provide leadership to the tribal, Federal and private sectors on Indian land and resource management issues.

**SEC. 103. DEFINITIONS.**

For the purposes of this Act:

(1) The term "agricultural land" means Indian land, excluding Indian forest land, that is used for the production of agricultural products, and lands occupied by industries that support the agricultural community, regardless of whether a formal inspection and land classification has been taken.

(2) The term "agricultural resource" means—

(A) all the primary means of production, including the land, soil, water, air, plant communities, watersheds, climate, human resources, natural physical attributes and man-made developments which together comprise the agricultural community; and

(B) all the benefits derived from agricultural land and enterprises, including cultivated and gathered food products, fibers, horticultural products, dyes, cultural or religious condiments, medicines, water, cultivated fisheries, wildlife, recreation, aesthetic and other traditional values of agriculture and rangelands.

(3) The term "agricultural product" means—

(A) crops grown under cultivated conditions whether used for personal consumption, subsistence, or sold for commercial benefit;

(B) domestic livestock including cattle, sheep, goats, horses, buffalo, swine, Alaska reindeer, fowl, cultivated fish, or other animals specifically raised and utilized for food, fiber, or as a beast of burden;

(C) forage, hay, fodder, feed grains, crop residues and other items grown or harvested for the feeding and care of livestock, sold for commercial profit, or used for other purposes;

(D) naturally occurring noncultivated plants and animals gathered for commercial sale, personal use, cultural or religious activities or for other purposes such as use in teas, medicines, as herbs or spices, for decoration, or for traditional purposes; and

(E) other marketable or traditionally used materials authorized for removal from agricultural lands.

(4) The term "land management activity" means all activities, accomplished in support of the management of Indian agricultural land, including but not limited to—

(A) preparation of inventories and management plans;

(B) agricultural land and infrastructure development, and the application of accepted soil or range management techniques to improve or restore the productive capacity of the land;

(C) protection against agricultural pests, including development, implementation, and evaluation of integrated pest management programs to control noxious weeds, undesirable vegetation, vertebrate or invertebrate agricultural pests;

(D) administration and supervision of agricultural leasing and permitting activities, including determination of proper land use and proper stocking rates of livestock, appraisal, advertisement, negotiation, contract preparation, collecting, recording, and distributing lease rental receipts;

(E) technical assistance to individuals and tribes engaged in agricultural production or agribusiness; and

(F) educational assistance in agriculture, natural resources, land management and related fields of study including direct assistance to community, tribal and land grant colleges in developing and implementing curriculum for vocational, technical and professional course work.

(5) The term "farmland" means Indian land, excluding Indian forest land, that is used for production of food, feed, fiber, forage and oil seed crops, or other agricultural products, and may be either dryland or irrigated.

(6) The term "rangeland" means Indian land, excluding Indian forest land, on which the native vegetation is predominantly grasses, grasslike plants, forbs or shrubs suitable for grazing or browsing use, and includes lands revegetated naturally or artificially to provide a forage cover that is managed like native vegetation. Rangelands include natural grasslands, savannahs, shrublands, most deserts, tundra, alpine communities, coastal marshes and wet meadows.

(7) The term "forest land" means Indian forest land as defined in section 304(3) of Public Law 101–630.

(8) The term "Indian" means a Native American or Alaska Native who is a member of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) The term "Indian tribe" means any Indian tribe, band, nation, rancheria, pueblo, or other organized dependent Indian group or community, including any Alaska Native village or regional or village corporation as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(10) The term "Indian land" means land that is—

(A) held in trust by the United States for an Indian or Indian tribe;

(B) owned by an Indian or Indian tribe and is subject to restrictions against alienation; or

(C) dependent Indian communities.

(11) The term "landowner" means the Indian or Indian tribe that—

(A) owns such land, or

(B) is the beneficiary of the trust under which such land is held by the United States.

(12) The term "Secretary" means the Secretary of the Interior, except where otherwise specifically designated.

(13) The term "Indian enterprise" means an enterprise—

(A) which—

(i) is engaged in construction (within the meaning of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)), and is entirely owned by Indians, or Indian tribes, that receive 100 percent of the profits of the enterprise; and

(ii) is engaged in any business other than construction and at least 51 percent of the enterprise is owned by Indians, or Indian tribes, that receive not less than 51 percent of the profits of the enterprise; or

(B) which—

(i) is entirely owned by an Indian tribe; or

(ii) has an Indian owner who—

(I) acts as the chief executive officer of the enterprise; and

(II) has the experience and training to manage, and does in fact manage, day-to-day activities of the enterprise.

## TITLE II—RANGELAND AND FARMLAND ENHANCEMENT

### SEC. 201. MANAGEMENT OF INDIAN RANGELANDS AND FARMLANDS.

(a) MANAGEMENT ACTIVITIES.—Pursuant to existing law, the Secretary shall manage Indian rangelands and farmlands, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (Act of January 4, 1975; Public Law 93-638; 88 Stat. 2204; 25 U.S.C. 450b), or such other legal mechanisms as are appropriate.

(b) MANAGEMENT OBJECTIVES.—Indian rangeland and farmland management activities shall be designed to achieve the following objectives—

(1) to protect, conserve, utilize, and enhance rangelands and farmlands in a perpetually productive state through the application of sound agronomic and economic principles to the planning, development, inventorying, classification, and management of agricultural resources;

(2) to increase production and expand the diversity and availability of agricultural products for subsistence, income, and employment of Indians and Alaska Natives, through the development of agricultural resources;

(3) to manage agricultural resources to protect and enhance other values such as wildlife, fisheries, cultural resources, recreation, and regulate water runoff and minimize soil erosion;

(4) to enable farmers and ranchers to maximize the potential benefits available to them through their land by providing technical assistance, training and education in conservation practices, management and economics of agribusiness, sources and use of credit, marketing of agricultural products, and other applicable subject areas;

(5) to develop Indian rangelands and farmlands and associated value-added industries of Indians and Indian tribes to promote self-sustaining communities, and so that Indians may receive from their trust lands not only lease value, but also the benefit of the labor and profit that such land is capable of producing; and

(6) to assist trust and restricted landowners in leasing their farmland and rangeland for a reasonable annual return, consistent with prudent management and conservation practices, and community goals as expressed in the tribal management plans and appropriate tribal ordinances.

(c) MANAGEMENT PLANS.—To achieve the objectives set forth in subsections (a) and (b), the Secretary, with full and active consultation with, and policy direction from, the tribe or tribes to be served and consistent with his trust responsibility, shall immediately embark on a reservation-by-reservation agricultural land resource management planning program encompassing or reflecting the following:

(1) A closed-term three-year effort conducted at the local tribe and agency level working through the governments of the tribes and in public meetings to determine and document the specific agriculture and land resource goals and desires of the local tribe and community.

(2) The defined goals as the basis in creating a ten-year agriculture program and land management plans to attain the goals defined for community lands and reservations by using public meetings, existing surveys, reports, local knowledge of the land and resources available from Federal agencies, tribal community colleges, and land grant institutions.

(3) A mechanism for assuring that the result of this three-year program will be specific, documented agriculture and land management programs, created and approved by the effected tribe or tribes, which address specific community concerns for land use and development. The individual reservation or tribal agricultural management planning documents will provide the direction to the Bureau of Indian Affairs and the tribes in the management and administration of the Indian owned agricultural trust resources. These program documents will also provide the basis for the application of Indian self-determination contracting of Agriculture and Natural Resource Programs under the Indian Self-Determination and Education Assistance Act.

(4) The contract and grant provisions of the Indian Self-Determination and Education Assistance Act shall be applicable to the development of these management plans.

### SEC. 202. INDIAN PARTICIPATION IN LAND MANAGEMENT ACTIVITIES.

(a) TRIBAL RECOGNITION.—The Secretary shall recognize tribal governments as the governmental entities with the authority to enact and enforce, for lands under their jurisdiction, land use planning, zoning, and other land use ordinances and shall conduct all land management activities in accordance with tribal goals and objectives as set forth in the land management plans and tribal laws and ordinances.

(b) TRIBAL LAWS.—Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal laws pertaining to Indian agricultural lands, including zoning and land use laws, and laws regulating the environment or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian agricultural lands. Such cooperation shall include—

(1) assistance in the enforcement of such laws;

(2) provision of notice of such laws to persons or entities undertaking activities on Indian agricultural lands; and

(3) upon request of an Indian tribe, an appearance in tribal forums.

(c) WAIVER OF REGULATIONS.—In any case in which a regulation or administrative policy of the Department of the Interior conflicts with or impedes—

(1) meeting the objectives of the management plan provided for in section 201; or

(2) conflicts with a tribal law,

the Secretary shall waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision, or would conflict with his general trust responsibility under Federal law.

### SEC. 203. COMPARATIVE ANALYSIS OF INDIAN RANGELAND AND FARMLAND MANAGEMENT PROGRAMS.

(a) COMPARATIVE ANALYSIS.—Within 90 days after the date of enactment of this Act, the Secretary shall assemble a Task Force consisting of appropriate officials of Indian tribal governments, the Bureau of Indian Affairs, the Bureau of Land Management, the United States Park Service, the Inter-Tribal Agriculture Council, the Southwest Inter-Tribal Agriculture Council, and such other nongovernmental persons or entities as the Secretary may deem appropriate to develop a comparative analysis of Federal investment and management efforts for Indian agricultural trust lands as compared to federally owned lands managed by other Federal agencies or instrumentalities. The Secretary shall request the Secretary of Agriculture to make available on a nonreimbursable basis appropriate personnel from the Department of Agriculture to assist in the development of such analysis.

(b) PURPOSES.—The purposes of the comparative analysis and the Survey Instrument shall be—

(1) to establish a comprehensive assessment of the needs for management improvement, funding, and development needs for each reservation with Indian rangeland and farmland;

(2) to establish a comparison of management and funding provided to comparable lands owned or managed by the Federal Government through Federal agencies other than the Bureau of Indian Affairs;

(3) to identify and to recommend mitigation measures for any obstacles to Indian access to Federal or private programs relating to agriculture or related rural development programs available to the American public at large; and

(4) to provide guidance in the development of the management plans required under the provisions of section 201 of this Act.

(c) IMPLEMENTATION.—Within six months from the date of enactment of this Act, the Secretary shall provide the Committee on Interior and Insular Affairs of the House of Representatives and the Select Committee on Indian Affairs of the Senate with a status report on the development of the comparative analysis required by this section, and shall file a final report with the Congress not more than nine months from the date of enactment of this Act.

### SEC. 204. LEASING OF INDIAN RANGELANDS AND FARMLANDS.

(a) AUTHORITY OF THE SECRETARY.—The Secretary—

(1) is authorized to approve any agricultural lease or permit with a tenure up to ten years, or a tenure longer than ten years but not to exceed 25 years unless authorized by other Federal law, when, in the opinion of the Secretary, such lease or permit requires substantial investment in development of the lands and/or crops by the lessee and such longer tenure is determined by the Secretary to be in the best interest of the landowners;

(2) is authorized to lease or permit agricultural lands at rates less than the Federal appraisal when such action would be in the best interest of the landowner, and in such instances, when such land has been satisfactorily advertised for lease, the highest responsible bid shall be accepted; and

(3) is authorized to waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary.

(b) AUTHORITY OF THE TRIBE.—When authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, the Secretary—

(1) shall provide a preference to Indian operators in the issuance and renewal of agriculture leases and permits, so long as the lessor receives fair market value for his property;

(2) shall waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary, provided that nothing in this paragraph shall be construed to restrict the discretion currently vested in the Secretary to waive or modify the bond requirements in the absence of a tribal resolution to the contrary; and

(3) when such tribal resolution sets forth a tribal definition of what constitutes "highly

fractionated undivided heirship lands" and adopts an alternative plan for providing notice to owners, the Secretary is authorized to waive or modify the general notice provisions and negotiate and lease or permit such highly fractionated undivided interest heirship lands in order to prevent waste, reduce idle land acreage and ensure income.

(c) RIGHTS OF INDIVIDUAL LAND OWNERS.—(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allotee in the use of his or her own land or to enter into an agricultural lease of the surface interest of his or her allotment under any other provision of law.

(2) The owners of a majority interest in any trust or restricted land (meaning an interest greater than 50 percent of the legal or beneficial title) are authorized to enter into an agricultural lease of the surface interest of a trust or restricted allotment, and such lease shall be binding upon the owners of the minority interests in such land, provided that the terms of the lease provide such minority interests with not less than fair market value for such land.

(3) The provisions of subsection (b) shall not be applicable to any parcel of trust or restricted land if the owners of 50 percent of the legal or beneficial interest in such land file with the Secretary a written objection to the application of all or any part of such tribal rules to the leasing of such parcel of land.

## TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT

### SEC. 301. ESTABLISHMENT OF INDIAN AND ALASKA NATIVE AGRICULTURE AND NATURAL RESOURCES MANAGEMENT EDUCATION ASSISTANCE PROGRAM.

(a) NATURAL RESOURCES INTERN PROGRAM.—(1) Notwithstanding the provisions of title 5 of the United States Code governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau of Indian Affairs or other appropriate office or bureau within the Department of the Interior at least 20 natural resources intern positions in addition to the forestry intern positions authorized in section 314(a) of Public Law 101–630 for Indian and Alaska Native students enrolled in an agriculture or natural resources study program.

(2) For purposes of this subsection, the term—

(A) "natural resources intern" means an Indian or Alaska Native who—

(i) is attending an approved postsecondary school in a full-time agriculture or natural resource related field; and

(ii) is appointed to one of the natural resources intern positions established under paragraph (1);

(B) "natural resources intern program" means positions established pursuant to paragraph (1) for natural resources interns; and

(C) "agriculture or natural resources study program" includes, but is not limited to, agricultural engineering, agricultural economics, animal husbandry, animal science, biological sciences, fishery management, geographic information systems, horticulture, range management, soil science, veterinary science, and wildlife biology.

(3) The Secretary shall pay, by reimbursement or otherwise, all costs for tuition, books, fees and living expenses incurred by a natural resources intern while attending an approved postsecondary or graduate school in a full-time natural resources study program.

(4) A natural resources intern shall be required to enter into an obligated service agreement to serve as an employee in a professional natural resources position with the Department of the Interior or other Federal agency, an Indian tribe, or a tribal natural resource related enterprise for one year for each year of education for which the Secretary pays the intern's educational costs under paragraph (3) of this subsection.

(5) A natural resources intern shall be required to report for service with the Bureau of Indian Affairs or other bureau or agency sponsoring his internship, or to a designated work site, during any break in attendance at school of more than three weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement under paragraph (4).

(b) COOPERATIVE EDUCATION PROGRAM.—(1) The Secretary shall maintain, through the Bureau of Indian Affairs, a cooperative education program for the purpose, among other things, of recruiting Indian and Alaska Native students who are enrolled in secondary schools, tribally controlled community colleges, and other postsecondary or graduate schools, for employment in professional natural resource related positions with the Bureau of Indian Affairs or other Federal agency providing Indian natural resource related services, Indian tribal governments, or tribal natural resource related enterprises.

(2) The cooperative educational program under paragraph (1) shall be modeled after, and shall have essentially the same features as, the program in effect on the date of enactment of this Act pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) The cooperative educational program shall include, among others, the following:

(A) The Secretary shall continue the established specific programs in agriculture and natural resources education at Southwestern Indian Polytechnic Institute (SIPI) and at Haskell Indian Junior College.

(B) The Secretary shall develop and maintain a cooperative program with the tribally controlled community colleges to coordinate course requirements, texts, and provide direct technical assistance so that a significant portion of the college credits in both the Haskell and SIPI programs can be met through local program work at participating community colleges.

(C) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement an informational and educational program to provide practical training and assistance in creating or maintaining a successful agricultural enterprise, assessing sources of commercial credit, developing markets and other subjects of interest to the rural community.

(D) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement research activities to improve the basis for determining appropriate management measures to apply to Indian resource management.

(4) Under the cooperative agreement program under paragraph (1), the Secretary shall pay all costs for tuition, books, and fees of an Indian or Alaska Native student who—

(A) is enrolled in a course of study at an education institution with which the Secretary has entered into a cooperative agreement; and

(B) is interested in a career with the Bureau of Indian Affairs, an Indian tribe or a tribal enterprise in the management of Indian rangelands, farmlands, or other natural resource assets.

(5) Financial need shall not be a requirement to receive assistance under the cooperative agreement program that is to be maintained under this subsection.

(6) A recipient of assistance under the cooperative education program under this subsection shall be required to enter into an obligated service agreement with the Secretary to serve as a professional in a natural resource related activity with the Bureau of Indian Affairs, or other Federal agency providing natural resource related services to Indians or Indian tribes, an Indian tribe, or a tribal natural resource related enterprise, for one year for each year for which the Secretary pays the recipients educational costs pursuant to paragraph (3).

(c) SCHOLARSHIP PROGRAM.—(1) The Secretary is authorized to grant scholarships to Indians and Alaska Natives enrolled in accredited natural resource related programs for postsecondary and graduate programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipient's course of study, with—

(A) the Bureau of Indian Affairs or other agency of the Federal Government providing natural resource related services to Indians or Indian tribes;

(B) a natural resource program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination and Education Assistance Act;

(C) an Indian enterprise engaged in a natural resource related business; or

(D) an Indian tribe's natural resource related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited postsecondary or graduate institution.

(d) EDUCATIONAL OUTREACH.—The Secretary shall conduct, through the Bureau of Indian Affairs, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, a natural resource education outreach program for Indian and Alaska Native youth to explain and stimulate interest in all aspects of management and careers in Indian natural resources.

(e) ADEQUACY OF PROGRAMS.—The Secretary shall administer the programs described in this section until a sufficient number of Indians and Alaska Natives are trained to ensure that there is an adequate number of qualified, professional Indian natural resource managers to manage the Bureau of Indian Affairs natural resource programs and programs maintained by or for Indian tribes.

### SEC. 302. POSTGRADUATION RECRUITMENT, EDUCATION AND TRAINING PROGRAMS.

(a) ASSUMPTION OF LOANS.—The Secretary shall establish and maintain a program to attract Indian and Alaska Native professional natural resource technicians who are graduates of a course of postsecondary or graduate education for employment in either the Bureau of Indian Affairs natural resource programs or, subject to the approval of the tribe, in tribal natural resource programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian and Alaska Native professional natural resource technicians in exchange for the Secretary's assumption of the employee's outstanding student loans. The period of employment shall be determined by the amount of the loan that is assumed.

(b) POSTGRADUATE INTERGOVERNMENTAL INTERNSHIPS.—For the purposes of training, skill development and orientation of Indian, Alaska Native, and Federal natural resource management personnel, and the enhancement of tribal and Bureau of Indian Affairs natural resource programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal, Indian and Alaska Native

*natural resource personnel. Such program shall—*

*(1) for agencies within the Department of the Interior—*

*(A) provide for the internship of Bureau of Indian Affairs, Alaska Native, and Indian natural resource employees in the natural resource related programs of other agencies of the Department of the Interior; and*

*(B) provide for the internship of natural resource personnel from the other Department of the Interior agencies within the Bureau of Indian Affairs, and, with the consent of the tribe, within tribal natural resource programs;*

*(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau of Indian Affairs and, with the consent of the tribe, within a tribal natural resource program of other natural resource personnel of such agencies who are above their sixth year of Federal service;*

*(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;*

*(4) provide for salaries and benefits of participating Indian and Alaska Native natural resource employees by the host agency; and*

*(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.*

*(c) CONTINUING EDUCATION AND TRAINING.—The Secretary shall maintain a program within the Trust Services Division of the Bureau of Indian Affairs for the ongoing education and training of Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel. Such program shall provide for—*

*(1) orientation training for Bureau of Indian Affairs natural resource personnel in tribal-Federal relations and responsibilities;*

*(2) continuing technical natural resource education for Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel; and*

*(3) development training of Indian and Alaska Native personnel in natural resource based enterprises and marketing.*

***SEC. 303. COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES.***

*(a) COOPERATIVE AGREEMENTS.—*

*(1) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary is authorized to negotiate and enter into cooperative agreements with Indian tribes to—*

*(A) engage in cooperative manpower and job training;*

*(B) develop and publish cooperative environmental education and natural resource planning materials; and*

*(C) perform land and facility improvements, and other activities related to land and natural resource management and development.*

*The Secretary may enter into such agreements when the Secretary determines the interest of Indians and Indian tribes will be benefited.*

*(2) In such cooperative agreements, the Secretary is authorized to advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities or equipment without regard to the provisions of section 3324, title 31, United States Code, relating to the advance of public moneys.*

*(b) SUPERVISION.—In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of section 2671 through 2680 of title 28, United States Code, and section 8101 through 8193 of title 5, United States Code.*

*(c) SAVINGS CLAUSE.—Nothing in this Act shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.*

***SEC. 304. OBLIGATED SERVICE; BREACH OF CONTRACT.***

*(a) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.*

*(b) BREACH OF CONTRACT; REPAYMENT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, pro rated for the amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.*

***TITLE IV—AUTHORIZATION OF APPROPRIATIONS***

***SEC. 401. AUTHORIZATIONS.***

*There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.*

***TITLE V—MISCELLANEOUS***

***SEC. 501. REGULATIONS.***

*Except as otherwise provided by this Act, the Secretary is directed to promulgate final regulations for the implementation of this Act within eighteen months from the date of enactment of this Act. All regulations promulgated pursuant to this Act shall be developed by the Secretary with the participation of the affected Indian tribes.*

***SEC. 502. SEVERABILITY.***

*If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this Act shall not be affected thereby.*

***SEC. 503. TRUST RESPONSIBILITY.***

*Nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States toward Indian trust lands or natural resources, or any legal obligation or remedy resulting therefrom.*

***SEC. 504. MISCELLANEOUS.***

*(a) DISCLAIMER.—Nothing in this Act shall be construed to supersede or limit the authority of other Federal, State or local agencies otherwise authorized by law to provide services to Indian landowners.*

*(b) DISCLAIMER.—Nothing in this Act shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and bylaws or other organizational document of such tribe.*

AMENDMENT NO 3393

(Purpose: To clarify certain responsibilities of the Secretary of the Interior)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN], for Mr. MCCAIN, proposes an amendment numbered 3393.

Mr. GARN. 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:

Strike out in the text of amendment subsection (a) of section 201 and insert a new subsection (a) as follows:

(a) MANAGEMENT ACTIVITIES.—The Secretary shall manage or administer the Indian rangeland and farmland programs authorized under existing law, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), or such other legal mechanisms as are appropriate.

Mr. MCCAIN. Mr. President, I rise to offer an amendment to 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.

S. 2977 was introduced in the Senate on July 2, 1992. A joint hearing on the bill was held by the Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs on September 22, 1992. At that hearing, the Department of the Interior expressed a number of objections to this bill.

Immediately following the hearing, committee staff met with representatives of the Bureau of Indian Affairs and the Solicitor's Office of the Department of the Interior. As a result of this meeting, and a second meeting, a number of amendments were developed and adopted by the committee which, in my opinion, address the concerns of the Department. I believe the Department shares this view.

Nevertheless, one final area of uncertainty remains. This is on the question of the management responsibility of the Secretary for Indian agricultural lands. Section 201(a) of s. 2977, as reported by the committee, provides that "Pursuant to existing law, the Secretary shall manage Indian rangelands and farmlands, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination Assistance Act of 1975 (Public Law 93–638)."

In its testimony before the Select Committee, the witness for the Interior Department testified that as a technical matter, the Department does not manage most of the Indian lands, and expressed concern that this legislation was imposing new management responsibilities on the Secretary. This is not the intention of this legislation.

The Department currently operates or administers a wide array of programs that compliment the very goals that S. 2977 is designed to accomplish. The purpose of the legislation is not to change the responsibilities that are exercised by the Secretary under existing

law, but rather to streamline and make more efficient the administration of the programs the Secretary now administers, and to empower the Indian tribes to assume a greater role in the management of these programs.

In order to make clear the intent of this legislation—that it is not intended to impose managerial responsibilities that are not now exercised under existing law—I am offering an amendment to make clear that the legislation will not impose on the Secretary any direct managerial responsibility other than that currently exercised under existing law.

Mr. President, I believe my amendment addresses the final policy concern raised by the administration. With this final amendment, I believe we now have a bill that should reduce, if not eliminate, the administration's strong opposition to S. 2977.

Mr. President, I ask unanimous consent that I be added as a cosponsor to S. 2977.

Mr. DASCHLE. Mr. President, I am pleased that we are here today considering S. 2977, the Indian Agricultural Resource Management Act.

The purpose of this legislation is to provide for the establishment of a viable system for the management or administration of Indian-owned lands; to enhance the capability of Indian ranchers and farmers to produce crops and products from such lands; to provide greater authority to the Indian tribes in the management and regulation of Indian agricultural lands; and to enhance the educational opportunities for Indian students in the management of Indian natural resources. The purpose of this legislation is not to establish new program responsibilities for the Secretary of the Interior. It is to streamline and make more efficient the administration of the programs the Secretary now administers, and to empower the Indian tribes to assume a greater role in the management of these programs.

The trust responsibility of the United States to the tribes and to the individual Indian land owners for protection of property is unquestioned. But the Bureau's Inventory and Production Report for 1992 shows that over 1.1 million acres of Indian trust land lie idle nationwide, and in Oklahoma alone nearly 60,000 acres are not being leased.

Over the past 20 years, the Indian agriculture program maintained by the Bureau of Indian Affairs has fallen into serious decline. Actual dollar funding levels for the program have remained static over the years and through inflation have been reduced to half or less of their former levels; the number of BIA personnel engaged in agricultural or natural resource management activities has decreased dramatically, and only in the past 3 or 4 years have any educational programs been instituted to provide training and educational assistance in the natural resources area.

In 1975 the Bureau of Indian Affairs budget for its Agricultural Resources Program was $22 million. In 1990 the actual dollar funding for this same program was $24 million. In 1975 the BIA employed 91 range conservationists; in 1990 there were 77. In 1975 there were 210 soil conservationists; in 1990 there were only 62—this to protect and manage some 54.5 million acres of trust or restricted land. In 1975 there were some 1,205 persons employed by the BIA in the Agricultural Resources Program. Today the Bureau's budget shows 654 personnel slots for these programs, many of which are apparently unfilled or detailed to other functions.

The need for enhanced educational opportunities for Indian students in the area of natural resources is fully acknowledged and was in fact supported by the Department in its testimony on this legislation before the Select Committee on Indian Affairs. Indeed, the need for increased educational efforts was emphasized in the President's White House Conference on Indian Education in its report filed with the President in May of this year.

Mr. President, this legislation does not impose new management responsibilities on the Secretary of the Interior. It does, however, require studies to determine the resource needs under existing programs to restore Indian Agricultural Programs to a viable standard. It empowers the tribes to conduct and develop management plans for agricultural lands to provide coherent long-term objectives. It recognizes the authority of the tribes to enact ordinances necessary to achieve these land use objectives. It allows tribes to adopt resolutions in support of Indian use of trust lands owned by the tribes or individual Indians while at the same time allowing individual Indians who own a 50-percent interest or more in an individual allotment to exempt his or her property from such Indian preference. Finally, it provides a much-needed educational program to Indian students in the field of natural resources management.

Mr. President, the administration has expressed concerns about the BIA's role under this legislation, and the amendment offered by my esteemed colleague from the State of Arizona has been worked out to address that concern. The amendment is totally consistent with the intent of this bill. While I believe that the bill, as reported by the Select Committee on Indian Affairs, is clear on its face, nevertheless, in order to avoid a strained interpretation by the Department of the Interior, I welcome my colleague's amendment as a means of further clarifying this issue.

Mr. President, I urge my colleagues to support the amendment offered by my esteemed colleague from Arizona and to support the enactment of this legislation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3393) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2977

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

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Indian Agricultural Resources Management Act of 1992".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. Purposes.
Sec. 103. Definitions.

TITLE II—RANGELAND AND FARMLAND ENHANCEMENT

Sec. 201. Management of Indian rangelands and farmlands.
Sec. 202. Indian participation in land management activities.
Sec. 203. Comparative analysis of Indian rangeland and farmland management programs.
Sec. 204. Leasing of Indian rangelands and farmlands.

TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT

Sec. 301. Establishment of Indian and Alaska Native agriculture and natural resources management education assistance program.
Sec. 302. Postgraduation recruitment, education and training programs.
Sec. 303. Cooperative agreement between the Department of the Interior and Indian tribes.
Sec. 304. Obligated service; breach of contract.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorizations.

TITLE V—MISCELLANEOUS

Sec. 501. Regulations.
Sec. 502. Severability.
Sec. 503. Trust responsibility.
Sec. 504. Miscellaneous.

**TITLE I—GENERAL PROVISIONS**

**SEC. 101. FINDINGS.**

(a) FINDINGS.—The Congress finds and declares that—

(1) Indian rangelands and farmlands are renewable and manageable natural resources that are among the most valuable Indian assets and are vital to the economic and social welfare of individual Indians and Indian tribes.

(2) Increased development and intensive management of Indian rangelands and farmlands will produce increased economic returns, enhance Indian self-determination, promote employment opportunities, and improve the social and economic well-being of Indian and surrounding communities.

(3) The United States has a trust responsibility to protect, conserve and enhance In-

dian rangelands and farmlands consistent with its fiduciary obligation and its unique relationship with Indian tribes and extends to all Federal agencies.

(4) Existing Federal laws do not sufficiently assure the adequate and necessary trust management of Indian rangelands and farmlands.

(5) The Federal investment in, and the management of Indian rangelands and farmlands is significantly below the level of investment in, and management of, rangelands and farmlands under the administration of the Bureau of Lands Management, Bureau of Reclamation, the National Forest Service, and private landowners.

(6) The beneficial use of Indian rangelands and farmlands by Indians is in serious decline throughout Indian country.

(7) Despite the Federal policy of Indian self-determination, Federal laws and policies have limited the authority and ability of tribal governments and Indian communities to develop land-based programs on the basis of local priorities.

**SEC. 102. PURPOSES.**

The purposes of this Act are to:

(1) Promote and increase and enable the opportunities for Indian use of their own resources so as to use Indian natural and human resources to achieve tribal goals, to decrease idle or underutilized land, reverse the damaging long-term losses in productivity and land values, and increase local employment opportunities, community income, and social stability.

(2) Safeguard the investments made in Indian rangelands and farmlands and agricultural enterprises and provide adequate, stable, and secure authority for the protection, conservation, utilization, and enhancement of Indian rangeland and farmland resources.

(3) Support and improve tribal self-determination by authorizing and facilitating the active tribal participation in the management decisionmaking processes on the allocation and use of local natural resources.

(4) Improve Indian access to Federal agriculture, rural development and related programs which are available to the American society at large through the various departments of the Federal Government.

(5) Provide for the development and management of Indian rangelands and farmlands at a level at least commensurate with the level of development and management afforded to federally owned or controlled lands.

(6) Meet the trust responsibility of the United States and promote self-determination of Indian tribes by managing Indian rangelands and farmlands and related renewable resources in a manner consistent with identified tribal goals and priorities, and nationally adopted multiple use and sustained yield principles.

(7) Increase the educational and training opportunities available to Indian people and communities in the practical, technical and professional aspects of agriculture, natural resources, and land management to improve local expertise and technical abilities and create a cadre of professional Indian agriculture resource managers who can provide leadership to the tribal, Federal and private sectors on Indian land and resource management issues.

**SEC. 103. DEFINITIONS.**

For the purposes of this Act:

(1) The term "agricultural land" means Indian land, excluding Indian forest land, that is used for the production of agricultural products, and lands occupied by industries that support the agricultural community, regardless of whether a formal inspection and land classification has been taken.

(2) The term "agricultural resource" means—

(A) all the primary means of production, including the land, soil, water, air, plant communities, watersheds, climate, human resources, natural physical attributes and man-made developments which together comprise the agricultural community; and

(B) all the benefits derived from agricultural land and enterprises, including cultivated and gathered food products, fibers, horticultural products, dyes, cultural or religious condiments, medicines, water, cultivated fisheries, wildlife, recreation, aesthetic and other traditional values of agriculture and rangelands.

(3) The term "agricultural product" means—

(A) crops grown under cultivated conditions whether used for personal consumption, subsistence, or sold for commercial benefit;

(B) domestic livestock including cattle, sheep, goats, horses, buffalo, swine, Alaska reindeer, fowl, cultivated fish, or other animals specifically raised and utilized for food, fiber, or as a beast of burden;

(C) forage, hay, fodder, feed grains, crop residues and other items grown or harvested for the feeding and care of livestock, sold for commercial profit, or used for other purposes;

(D) naturally occurring noncultivated plants and animals gathered for commercial sale, personal use, cultural or religious activities or for other purposes such as use in teas, medicines, as herbs or spices, for decoration, or for traditional purposes; and

(E) other marketable or traditionally used materials authorized for removal from agricultural lands.

(4) The term "land management activity" means all activities, accomplished in support of the management of Indian agricultural land, including but not limited to—

(A) preparation of inventories and management plans;

(B) agricultural land and infrastructure development, and the application of accepted soil or range management techniques to improve or restore the productive capacity of the land;

(C) protection against agricultural pests, including development, implementation, and evaluation of integrated pest management programs to control noxious weeds, undesirable vegetation, vertebrate or invertebrate agricultural pests;

(D) administration and supervision of agricultural leasing and permitting activities, including determination of proper land use and proper stocking rates of livestock, appraisal, advertisement, negotiation, contract preparation, collecting, recording, and distributing lease rental receipts;

(E) technical assistance to individuals and tribes engaged in agricultural production or agribusiness; and

(F) educational assistance in agriculture, natural resources, land management and related fields of study including direct assistance to community, tribal and land grant colleges in developing and implementing curriculum for vocational, technical and professional course work.

(5) The term "farmland" means Indian land, excluding Indian forest land, that is used for production of food, feed, fiber, forage and oil seed crops, or other agricultural products, and may be either dryland or irrigated.

(6) The term "rangeland" means Indian land, excluding Indian forest land, on which the native vegetation is predominantly grasses, grass-like plants, forbs or shrubs suitable for grazing or browsing use, and includes lands revegetated naturally or artificially to provide a forage cover that is managed like native vegetation. Rangelands include natural grasslands, savannahs, shrublands, most deserts, tundra, alpine communities, coastal marshes and wet meadows.

(7) The term "forest land" means Indian forest land as defined in section 304(3) of Public Law 101-630.

(8) The term "Indian" means a Native American or Alaska Native who is a member of an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) The term "Indian tribe" means any Indian tribe, band, nation, rancheria, pueblo, or other organized dependent Indian group or community, including any Alaska Native village or regional or village corporation as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(10) The term "Indian land" means land that is—

(A) held in trust by the United States for an Indian or Indian tribe;

(B) owned by an Indian or Indian tribe and is subject to restrictions against alienation; or

(C) dependent Indian communities.

(11) The term "landowner" means the Indian or Indian tribe that—

(A) owns such land, or

(B) is the beneficiary of the trust under which such land is held by the United States.

(12) The term "Secretary" means the Secretary of the Interior, except where otherwise specifically designated.

(13) The term "Indian enterprise" means an enterprise—

(A) which—

(i) is engaged in construction (within the meaning of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)), and is entirely owned by Indians, or Indian tribes, that receive 100 percent of the profits of the enterprise; and

(ii) is engaged in any business other than construction and at least 51 percent of the enterprise is owned by Indians, or Indian tribes, that receive not less than 51 percent of the profits of the enterprise; or

(B) which—

(i) is entirely owned by an Indian tribe; or

(ii) has an Indian owner who—

(I) acts as the chief executive officer of the enterprise; and

(II) has the experience and training to manage, and does in fact manage, day-to-day activities of the enterprise.

## TITLE II—RANGELAND AND FARMLAND ENHANCEMENT

**SEC. 201. MANAGEMENT OF INDIAN RANGELANDS AND FARMLANDS.**

(a) MANAGEMENT ACTIVITIES.—The Secretary shall manage or administer the Indian rangeland and farmland programs authorized under existing law, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), or such other legal mechanisms as are appropriate.

(b) MANAGEMENT OBJECTIVES.—Indian rangeland and farmland management activities shall be designed to achieve the following objectives—

(1) to protect, conserve, utilize, and enhance rangelands and farmlands in a perpet-

ually productive state through the application of sound agronomic and economic principles to the planning, development, inventorying, classification, and management of agricultural resources;

(2) to increase production and expand the diversity and availability of agricultural products for subsistence, income, and employment of Indians and Alaska Natives, through the development of agricultural resources;

(3) to manage agricultural resources to protect and enhance other values such as wildlife, fisheries, cultural resources, recreation, and regulate water runoff and minimize soil erosion;

(4) to enable farmers and ranchers to maximize the potential benefits available to them through their land by providing technical assistance, training and education in conservation practices, management and economics of agribusiness, sources and use of credit, marketing of agricultural products, and other applicable subject areas;

(5) to develop Indian rangelands and farmlands and associated value-added industries of Indians and Indian tribes to promote self-sustaining communities, and so that Indians may receive from their trust lands not only lease value, but also the benefit of the labor and profit that such land is capable of producing; and

(6) to assist trust and restricted landowners in leasing their farmland and rangeland for a reasonable annual return, consistent with prudent management and conservation practices, and community goals as expressed in the tribal management plans and appropriate tribal ordinances.

(c) MANAGEMENT PLANS.—To achieve the objectives set forth in subsections (a) and (b), the Secretary, with full and active consultation with, and policy direction from, the tribe or tribes to be served and consistent with his trust responsibility, shall immediately embark on a reservation-by-reservation agricultural land resource management planning program encompassing or reflecting the following:

(1) A closed-term three-year effort conducted at the local tribe and agency level working through the governments of the tribes and in public meetings to determine and document the specific agriculture and land resource goals and desires of the local tribe and community.

(2) The defined goals as the basis in creating a ten-year agriculture program and land management plans to attain the goals defined for community lands and reservations by using public meetings, existing surveys, reports, local knowledge of the land and resources available from Federal agencies, tribal community colleges, and land grant institutions.

(3) A mechanism for assuring that the result of this three-year program will be specific, documented agriculture and land management programs, created and approved by the affected tribe or tribes, which address specific community concerns for land use and development. The individual reservation or tribal agricultural management planning documents will provide the direction to the Bureau of Indian Affairs and the tribes in the management and administration of the Indian owned agricultural trust resources. These program documents will also provide the basis for the application of Indian self-determination contracting of Agriculture and Natural Resource Programs under the Indian Self-Determination and Education Assistance Act.

(4) The contract and grant provisions of the Indian Self-Determination and Education Assistance Act shall be applicable to the development of these management plans.

**SEC. 202. INDIAN PARTICIPATION IN LAND MANAGEMENT ACTIVITIES.**

(a) TRIBAL RECOGNITION.—The Secretary shall recognize tribal governments as the governmental entities with the authority to enact and enforce, for lands under their jurisdiction, land use planning, zoning, and other land use ordinances and shall conduct all land management activities in accordance with tribal goals and objectives as set forth in the land management plans and tribal laws and ordinances.

(b) TRIBAL LAWS.—Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal laws pertaining to Indian agricultural lands, including zoning and land use laws, and laws regulating the environment or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian agricultural lands. Such cooperation shall include—

(1) assistance in the enforcement of such laws;

(2) provision of notice of such laws to persons or entities undertaking activities on Indian agricultural lands; and

(3) upon request of an Indian tribe, an appearance in tribal forums.

(c) WAIVER OF REGULATIONS.—In any case in which a regulation or administrative policy of the Department of the Interior conflicts with or impedes—

(1) meeting the objectives of the management plan provided for in section 201; or

(2) conflicts with a tribal law,

the Secretary shall waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision, or would conflict with his general trust responsibility under Federal law.

**SEC. 203. COMPARATIVE ANALYSIS OF INDIAN RANGELAND AND FARMLAND MANAGEMENT PROGRAMS.**

(a) COMPARATIVE ANALYSIS.—Within 90 days after the date of enactment of this Act, the Secretary shall assemble a Task Force consisting of appropriate officials of Indian tribal governments, the Bureau of Indian Affairs, the Bureau of Land Management, the United States Park Service, the Inter-Tribal Agriculture Council, the Southwest Inter-Tribal Agriculture Council, and such other nongovernmental persons or entities as the Secretary may deem appropriate to develop a comparative analysis of Federal investment and management efforts for Indian agricultural trust lands as compared to federally owned lands managed by other Federal agencies or instrumentalities. The Secretary shall request the Secretary of Agriculture to make available on a nonreimbursable basis appropriate personnel from the Department of Agriculture to assist in the development of such analysis.

(b) PURPOSES.—The purposes of the comparative analysis and the Survey Instrument shall be—

(1) to establish a comprehensive assessment of the needs for management improvement, funding, and development needs for each reservation with Indian rangeland and farmland;

(2) to establish a comparison of management and funding provided to comparable lands owned or managed by the Federal Government through Federal agencies other than the Bureau of Indian Affairs;

(3) to identify and to recommend mitigation measures for any obstacles to Indian access to Federal or private programs relating to agriculture or related rural development programs available to the American public at large; and

(4) to provide guidance in the development of the management plans required under the provisions of section 201 of this Act.

(c) IMPLEMENTATION.—Within six months from the date of enactment of this Act, the Secretary shall provide the Committee on Interior and Insular Affairs of the House of Representatives and the Select Committee on Indian Affairs of the Senate with a status report on the development of the comparative analysis required by this section, and shall file a final report with the Congress not more than nine months from the date of enactment of this Act.

**SEC. 204. LEASING OF INDIAN RANGELANDS AND FARMLANDS.**

(a) AUTHORITY OF THE SECRETARY.—The Secretary—

(1) is authorized to approve any agricultural lease or permit with a tenure up to ten years, or a tenure longer than ten years but not to exceed 25 years unless authorized by other Federal law, when, in the opinion of the Secretary, such lease or permit requires substantial investment in development of the lands and/or crops by the lessee and such longer tenure is determined by the Secretary to be in the best interest of the landowners;

(2) is authorized to lease or permit agricultural lands at rates less than the Federal appraisal when such action would be in the best interest of the landowner, and in such instances, when such land has been satisfactorily advertised for lease, the highest responsible bid shall be accepted; and

(3) is authorized to waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary.

(b) AUTHORITY OF THE TRIBE.—When authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, the Secretary—

(1) shall provide a preference to Indian operators in the issuance and renewal of agriculture leases and permits, so long as the lessor receives fair market value for his property;

(2) shall waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary, provided that nothing in this paragraph shall be construed to restrict the discretion currently vested in the Secretary to waive or modify the bond requirements in the absence of a tribal resolution to the contrary; and

(3) when such tribal resolution sets forth a tribal definition of what constitutes "highly fractionated undivided heirship lands" and adopts an alternative plan for providing notice to owners, the Secretary is authorized to waive or modify the general notice provisions and negotiate and lease or permit such highly fractionated undivided interest heirship lands in order to prevent waste, reduce idle land acreage and ensure income.

(c) RIGHTS OF INDIVIDUAL LAND OWNERS.—(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allotee in the use of his or her own land or to enter into an agricultural lease of the surface interest of his or her allotment under any other provision of law.

(2) The owners of a majority interest in any trust or restricted land (meaning an interest greater than 50 percent of the legal or beneficial title) are authorized to enter into an agricultural lease of the surface interest of a trust or restricted allotment, and such lease shall be binding upon the owners of the minority interests in such land, provided

that the terms of the lease provide such minority interests with not less than fair market value for such land.

(3) The provisions of subsection (b) shall not be applicable to any parcel of trust or restricted land if the owners of 50 percent of the legal or beneficial interest in such land filed with the Secretary a written objection to the application of all or any part of such tribal rules to the leasing of such parcel of land.

## TITLE III—EDUCATION IN AGRICULTURE AND NATURAL RESOURCE MANAGEMENT

### SEC. 301. ESTABLISHMENT OF INDIAN AND ALASKA NATIVE AGRICULTURE AND NATURAL RESOURCES MANAGEMENT EDUCATION ASSISTANCE PROGRAM.

(a) NATURAL RESOURCES INTERN PROGRAM.—(1) Notwithstanding the provisions of title 5 of the United States Code governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau of Indian Affairs or other appropriate office or bureau within the Department of the Interior at least 20 natural resources intern positions in addition to the forestry intern positions authorized in section 314(a) of Public Law 101-630 for Indian and Alaska Native students enrolled in an agriculture or natural resources study program.

(2) For purposes of this subsection, the term—

(A) "natural resources intern" means an Indian or Alaska Native who—

(i) is attending an approved postsecondary school in a full-time agriculture or natural resource related field; and

(ii) is appointed to one of the natural resources intern positions established under paragraph (1);

(B) "natural resources intern program" means positions established pursuant to paragraph (1) for natural resources interns; and

(C) "agriculture or natural resources study program" includes, but is not limited to, agricultural engineering, agricultural economics, animal husbandry, animal science, biological sciences, fishery management, geographic information systems, horticulture, range management, soil science, veterinary science, and wildlife biology.

(3) The Secretary shall pay, by reimbursement or otherwise, all costs for tuition, books, fees and living expenses incurred by a natural resources intern while attending an approved postsecondary or graduate school in a full-time natural resources study program.

(4) A natural resources intern shall be required to enter into an obligated service agreement to serve as an employee in a professional natural resources position with the Department of the Interior or other Federal agency, an Indian tribe, or a tribal natural resource related enterprise for one year for each year of education for which the Secretary pays the intern's educational costs under paragraph (3) of this subsection.

(5) A natural resources intern shall be required to report for service with the Bureau of Indian Affairs or other bureau or agency sponsoring his internship, or to a designated work site, during any break in attendance at school of more than three weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement under paragraph (4).

(b) COOPERATIVE EDUCATION PROGRAM.—(1) The Secretary shall maintain, through the Bureau of Indian Affairs, a cooperative education program for the purpose, among other things, of recruiting Indian and Alaska Native students who are enrolled in secondary schools, tribally controlled community colleges, and other postsecondary or graduate schools, for employment in professional natural resource related positions with the Bureau of Indian Affairs or other Federal agency providing Indian natural resource related services, Indian tribal governments, or tribal natural resource related enterprises.

(2) The cooperative educational program under paragraph (1) shall be modeled after, and shall have essentially the same features as, the program in effect on the date of enactment of this Act pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) The cooperative educational program shall include, among others, the following:

(A) The Secretary shall continue the established specific programs in agriculture and natural resources education at Southwestern Indian Polytechnic Institute (SIPI) and at Haskell Indian Junior College.

(B) The Secretary shall develop and maintain a cooperative program with the tribally controlled community colleges to coordinate course requirements, texts, and provide direct technical assistance so that a significant portion of the college credits in both the Haskell and SIPI programs can be met through local program work at participating community colleges.

(C) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement an informational and educational program to provide practical training and assistance in creating or maintaining a successful agricultural enterprise, assessing sources of commercial credit, developing markets and other subjects of interest to the rural community.

(D) Working through tribally controlled community colleges and in cooperation with land grant institutions, the Secretary shall implement research activities to improve the basis for determining appropriate management measures to apply to Indian resource management.

(4) Under the cooperative agreement program under paragraph (1), the Secretary shall pay all costs for tuition, books, and fees of an Indian or Alaska Native student who—

(A) is enrolled in a course of study at an education institution with which the Secretary has entered into a cooperative agreement; and

(B) is interested in a career with the Bureau of Indian Affairs, an Indian tribe or a tribal enterprise in the management of Indian rangelands, farmlands, or other natural resource assets.

(5) Financial need shall not be a requirement to receive assistance under the cooperative agreement program that is to be maintained under this subsection.

(6) A recipient of assistance under the cooperative education program under this subsection shall be required to enter into an obligated service agreement with the Secretary to serve as a professional in a natural resource related activity with the Bureau of Indian Affairs, or other Federal agency providing natural resource related services to Indians or Indian tribes, an Indian tribe, or a tribal natural resource related enterprise, for one year for each year for which the Secretary pays the recipients educational costs pursuant to paragraph (3).

(c) SCHOLARSHIP PROGRAM.—(1) The Secretary is authorized to grant scholarships to Indians and Alaska Natives enrolled in accredited natural resource related programs for postsecondary and graduate programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipient's course of study, with—

(A) the Bureau of Indian Affairs or other agency of the Federal Government providing natural resource related services to Indians or Indian tribes;

(B) a natural resource program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination and Education Assistance Act;

(C) an Indian enterprise engaged in a natural resource related business; or

(D) an Indian tribe's natural resource related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited postsecondary or graduate institution.

(d) EDUCATIONAL OUTREACH.—The Secretary shall conduct, through the Bureau of Indian Affairs, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, a natural resource education outreach program for Indian and Alaska Native youth to explain and stimulate interest in all aspects of management and careers in Indian natural resources.

(e) ADEQUACY OF PROGRAMS.—The Secretary shall administer the programs described in this section until a sufficient number of Indians and Alaska Natives are trained to ensure that there is an adequate number of qualified, professional Indian natural resource managers to manage the Bureau of Indian Affairs natural resource programs and programs maintained by or for Indian tribes.

### SEC. 302. POSTGRADUATION RECRUITMENT, EDUCATION AND TRAINING PROGRAMS.

(a) ASSUMPTION OF LOANS.—The Secretary shall establish and maintain a program to attract Indian and Alaska Native professional natural resource technicians who are graduates of a course of postsecondary or graduate education for employment in either the Bureau of Indian Affairs natural resource programs or, subject to the approval of the tribe, in tribal natural resource programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian and Alaska Native professional natural resource technicians in exchange for the Secretary's assumption of the employee's outstanding student loans. The period of employment shall be determined by the amount of the loan that is assumed.

(b) POSTGRADUATE INTERGOVERNMENTAL INTERNSHIPS.—For the purposes of training, skill development and orientation of Indian, Alaska Native, and Federal natural resource management personnel, and the enhancement of tribal and Bureau of Indian Affairs natural resource programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal, Indian and Alaska Native natural resource personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau of Indian Affairs, Alaska Native, and Indian

natural resource employees in the natural resource related programs of other agencies of the Department of the Interior; and

(B) provide for the internship of natural resource personnel from the other Department of the Interior agencies within the Bureau of Indian Affairs, and, with the consent of the tribe, within tribal natural resource programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau of Indian Affairs and, with the consent of the tribe, within a tribal natural resource program of other natural resource personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian and Alaska Native natural resource employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

(c) CONTINUING EDUCATION AND TRAINING.—The Secretary shall maintain a program within the Trust Services Division of the Bureau of Indian Affairs for the ongoing education and training of Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel. Such program shall provide for—

(1) orientation training for Bureau of Indian Affairs natural resource personnel in tribal-Federal relations and responsibilities;

(2) continuing technical natural resource education for Bureau of Indian Affairs, Alaska Native, and Indian natural resource personnel; and

(3) development training of Indian and Alaska Native personnel in natural resource based enterprises and marketing.

**SEC. 303. COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES.**

(a) COOPERATIVE AGREEMENTS.—

(1) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary is authorized to negotiate and enter into cooperative agreements with Indian tribes to—

(A) engage in cooperative manpower and job training;

(B) develop and publish cooperative environmental education and natural resource planning materials; and

(C) perform land and facility improvements, and other activities related to land and natural resource management and development.

The Secretary may enter into such agreements when the Secretary determines the interest of Indians and Indian tribes will be benefited.

(2) In such cooperative agreements, the Secretary is authorized to advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities or equipment without regard to the provisions of section 3324, title 31, United States Code, relating to the advance of public moneys.

(b) SUPERVISION.—In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of section 2671 through 2680 of title 28, United States Code, and section 8101 through 8193 of title 5, United States Code.

(c) SAVINGS CLAUSE.—Nothing in this Act shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

**SEC. 304. OBLIGATED SERVICE; BREACH OF CONTRACT.**

(a) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) BREACH OF CONTRACT; REPAYMENT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, pro rated for the amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

**TITLE IV—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 401. AUTHORIZATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

**TITLE V—MISCELLANEOUS**

**SEC. 501. REGULATIONS.**

Except as otherwise provided by this Act, the Secretary is directed to promulgate final regulations for the implementation of this Act within eighteen months from the date of enactment of this Act. All regulations promulgated pursuant to this Act shall be developed by the Secretary with the participation of the affected Indian tribes.

**SEC. 502. SEVERABILITY.**

If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this Act shall not be affected thereby.

**SEC. 503. TRUST RESPONSIBILITY.**

Nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States toward Indian trust lands or natural resources, or any legal obligation or remedy resulting therefrom.

**SEC. 504. MISCELLANEOUS.**

(a) DISCLAIMER.—Nothing in this Act shall be construed to supersede or limit the authority of other Federal, State or local agencies otherwise authorized by law to provide services to Indian landowners.

(b) DISCLAIMER.—Nothing in this Act shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and bylaws or other organizational document of such tribe.

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

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

The motion to lay on the table was agreed to.

## MEASURE REFERRED—SENATE JOINT RESOLUTION 335

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 335, a resolution concerning the overthrow of the Kingdom of Hawaii, and that it then be referred to the Senate Select Committee on Indian Affairs.

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

## SOVIET SCIENTISTS IMMIGRATION ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives of S. 2201.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 2201) entitled "An Act to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States and the Baltic states as employment-based immigrants under the Immigration and Nationality Act, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Soviet Scientists Immigration Act of 1992".*

***SEC. 2. DEFINITIONS.***

*For purposes of this Act—*

*(1) the term "Baltic states" means the sovereign nations of Latvia, Lithuania, and Estonia;*

*(2) the term "independent states of the former Soviet Union" means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and*

*(3) the term "eligible independent states and Baltic scientists" means aliens—*

*(A) who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and*

*(B) who are scientists or engineers who have expertise in nuclear, chemical, biological or other high technology fields or who are working on nuclear, chemical, biological or other high-technology defense projects, as defined by the Attorney General.*

***SEC. 3. WAIVER OF JOB OFFER REQUIREMENT.***

*The requirement in section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C 1153(b)(2)(A)) that an alien's services in the sciences, arts, or business be sought by an employer in the United States shall not apply to any eligible independent states or Baltic scientist who is applying for admission to the United States for permanent residence in accordance with that section.*

***SEC. 4. CLASSIFICATION OF INDEPENDENT STATES SCIENTISTS AS HAVING EXCEPTIONAL ABILITY.***

*(a) IN GENERAL.—The Attorney General shall designate a class of eligible independent states and Baltic scientists, based on their level of expertise, as aliens who possess "exceptional ability in the sciences", for purposes of section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)), whether or not such scientists possess advanced degrees.*

*(b) REGULATIONS.—The Attorney General shall prescribe regulations to carry out subsection (a).*

*(c) LIMITATION.—Not more than 750 eligible independent states and Baltic scientists (excluding spouses and children if accompanying or following to join) within the class designated under subsection (a) may be allotted visas under section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)).*

*(d) TERMINATION.—The authority of subsection (a) shall terminate 4 years after the date of enactment of this Act.*

Amend the title so as to read: "An Act to authorize the admission to the United States of certain scientists of the independent states of the former Soviet Union and the Baltic states as employment-based immigrants under the Immigration and Nationality Act.".

Mr. MITCHELL. I move that the Senate concur in the amendments of the House.

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

The motion was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## ANNUAL REPORT OF THE RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT—PM 287

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 Labor and Human Resources:

*To the Congress of the United States:*

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for Fiscal Year 1991, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

The Railroad Retirement Board (RRB) serves over 873,000 railroad retirees and their families and almost 283,000 railroad employees who rely on the system for retirement, unemployment, disability, and sickness insurance benefits. Beneficiaries depend on the financial integrity of the pension funds for payment of their benefits.

This report includes the Annual Actuarial Report, which concludes that the railroad retirement system will not experience a cash flow problem in the near future. The Chief Actuary at RRB, however, warns that "the long term viability of the system . . . is still questionable." Based on the report's analysis, if employment trends continue as they have for over a quarter of a century, the trust funds will go broke sometime between 2010 and 2016.

I continue to strongly oppose the permanent diverting of Federal income taxes to the rail pension system. Since 1983 approximately $5.4 billion in taxpayer subsidies have been given to the rail pension fund, $1.72 billion of which were from the diversion of income taxes. The Railroad Retirement Board believes current resources are sufficient to pay benefits, except under the most pessimistic assumptions, thereby rendering Federal subsidies unnecessary. Railroad pensions should be financed solely by rail sector resources.

As I stated last year, I support all equitable reforms to the system, such as privatization and the extension of rules protecting private pensions (Employee Retirement Income Security Act) to the railroad's private pension system.

GEORGE BUSH.

THE WHITE HOUSE, *October 1, 1992.*

## MESSAGES FROM THE HOUSE

At 12:40 p.m., a message from the House of Representatives, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5368) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. OBEY, Mr. YATES, Mr. MCHUGH, Mr. LEHMAN of Florida, Mr. WILSON, Mr. SMITH of Florida, Mr. VISCLOSKY, Mr. ALEXANDER, Mr. WHITTEN, Mr. EDWARDS of Oklahoma, Mr. PORTER, Mr. GREEN of New York, Mr. LIVINGSTON, and Mr. MCDADE as managers of the conference on the part of the House.

The message further announced that the House agree 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. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for certain employees, 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:

H.R. 1637. An act to make improvements in the Black Lung Benefits Act.

H.R. 5192. An act to amend title 38, United States Code, to make improvements to veterans health programs.

At 6:03 p.m. a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker makes the following modifications in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11) entitled "An act to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes":

As additional conferees from the Committee on Agriculture, for ccnsideration of sections 7123, 7126 and title VIII of the House bill, and sections 7171 and 7173 and title VIII of the Senate amendment, and modifications committed to conference: Mr. de la GARZA, Mr. TALLON, and Mr. COLEMAN of Missouri.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, and Mr. WYLIE.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9212 of the Senate amendment, and modifications committed to conference: Mr. TORRES, Mr. HUBBARD, and Mr. MCCANDLESS.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9232 of the Senate amendment, and modifications committed to conference: Mr. ANNUNZIO, Mr. HUBBARD, and Mr. WYLIE.

As additional conferees from the Committee on Education and Labor, for consideration of sections 7123 and 7125 of the House bill, and sections 2173, 4246, 7102, 7134(c), 7142–7143, 7151, 7171, 7172, and 7176 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS of New York, Mr. PERKINS, Mrs. ROUKEMA, Mr. FAWELL, and Mr. BALLENGER.

As additional conferees from the Committee on Education and Labor, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. GAYDOS, and Mr. GOODLING.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 7104, 7123, 7125, and 7126 of the House bill, and sec-

tions 2171–2173, 2175, 2177–2185, 6220, 6231–6251, 7109, 7121, 7136, 7171–7174, 10011(b), 10201, 14111–14140, titles XI, XV, and XVI of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mrs. COLLINS of Illinois, Mr. WAXMAN, Mr. SIKORSKI, Mr. BRUCE, Mr. LENT, Mr. DANNEMEYER, and Mr. BLILEY: Provided, that solely for consideration of sections 10011(b) and 10201 and title XI of the Senate amendment, Mr. MARKEY, Mr. SYNAR, and Mr. BOUCHER are appointed in lieu of Mr. WAXMAN, Mr. SIKORSKI, and Mr. BRUCE; that solely for consideration of sections 2180–2185, 6220, 6231–6241, and 14111–14140 of the Senate amendment, Mr. BILIRAKIS is appointed in lieu of Mr. LENT; that solely for consideration of sections 2173, 2175, 6251, 10011(b), and 10201 of the Senate amendment, Mr. MCMILLAN of North Carolina is appointed in lieu of Mr. BLILEY; and solely for consideration of title XI of the Senate amendment, Mr. RINALDO is appointed in lieu of Mr. BLILEY.

As additional conferees from the Committee on Energy and Commerce, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, and Mr. LENT.

As additional conferees from the Committee on the Judiciary, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. SCHUMER, and Mr. SENSENBRENNER.

As additional conferees from the Committee on the Judiciary, for consideration of section 9204 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. EDWARDS of California, Mr. SYNAR, Mr. BRYANT, Mr. STAGGERS, Mr. FISH, Mr. MOORHEAD, and Mr. SMITH of Texas.

As additional conferees from the Committee on the Judiciary, for consideration of title X of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. SCHUMER, Mr. HUGHES, Mr. BRYANT, Mr. SANGMEISTER, Mr. SENSENBRENNER, Mr. SCHIFF, and Mr. RAMSTAD.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles XII and XIII of the Senate amendment, and modifications committed to conference: Mr. STUDDS, Mr. HUBBARD, Mr. HUGHES, Mr. TAUZIN, Mrs. UNSOELD, Mr. DAVIS, Mr. YOUNG of Alaska, and Mr. FIELDS.

As additional conferees from the Committee on Ways and Means, for consideration of sections 7123, 7125, 7126, and title VIII of the House bill, and sections 2173, 7171, 7173, titles VIII and X of the Senate amendment, and modifications committed to conference: Mr. JACOBS, Mr. FORD of Tennessee, Mr. JENKINS, Mr. DOWNEY, Mr. GUARINI, Mr. RUSSO, Mr. PEASE, Mr. SCHULZE, Mr. GRADISON, Mr. THOMAS of California, and Mr. MCGRATH.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. FAZIO, Mr. SMITH of Florida, Mr. OBEY, Mr. MURTHA, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. WHITTEN, Mr. LEWIS of California, Mr. PORTER, Mrs. VUCANOVICH, and Mr. MCDADE as managers of the conference on the part of the House.

The message further announced that the House of Representatives having proceeded to reconsider the bill (S. 323) entitled "An act to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved, that said bill do not pass, two-thirds of the House of Representatives agreeing not to pass the same.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 8:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 1628. An act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes;

H.R. 3508. An act 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;

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug;

H.R. 5673. An act to amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research; and

H.J. Res. 320. Joint resolution authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War.

The enrolled bills and joint resolution were subsequently signed by [Mr. BYRD].

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At 9:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 138. Concurrent resolution to authorize a correction in the enrollment of H.R. 2042.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2042) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. FASCELL, Mr. GEJDENSON, Mr. FEIGHAN, Mr. JOHNSTON of Florida, Mr. BROOMFIELD, and Mr. ROTH as managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 1696) to designate certain national forest lands in the State of Montana as wilderness, to release other national forest lands in the State of Montana for multiple use management, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5575. An act to authorize certain additional uses of the Library of Congress Special Facilities Center, and for other purposes.

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## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3966. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Soil Conservation Service Report consisting of a Plan for the Town Branch Watershed, Gentry County, Missouri, and an Environmental Impact Statement"; to the Committee on Agriculture, Nutrition and Forestry.

EC–3967. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Soil Conservation Service Plan for the East Yellow Creek Watershed, Sullivan, Linn, and Chariton Counties, Missouri"; to the Committee on Agriculture, Nutrition and Forestry.

EC–3968. A communication from the President of the United States, transmitting, pursuant to law, a request relating to the Fiscal Year 1993 Department of Defense budget and the Junior Reserve Officer Training Corps program; to the Committee on Appropriations.

EC–3969. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmit-

ting, pursuant to law, a report to Congress on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–3970. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "National Reconnaissance Office Security Act"; to the Select Committee on Intelligence.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 240. A bill for the relief of Rodgito Keller.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 1759. A bill for the relief of James B. Stanley.

H.R. 3590. A bill for the relief of Lloyd B. Gamble.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 5452. A bill granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority.

S. 287. A bill for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1174. A bill to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2013. A bill to amend chpater 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2499. A bill for the relief of Elham Ghandour Cicippio.

S. 2652. A bill to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Brook Hedge, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Lee F. Satterfield, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Shirley Chilton-O'Dell, of California, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 1994:

Stephen Norris, of Virginia, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 1994;

Tony Armendariz, of Texas, to be a Member of the Federal Labor Relations Authority for a term of five years; and

Wayne Arthuir Schley, of Alaska, to be a Commissioner of the Postal Rate Commission for the remainder of the term expiring October 14, 1994.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## 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. SPECTER:

S. 3302. A bill to require the Secretary of the Treasury to mint coins in commemoration of women who served in the Armed Forces of the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY:

S. 3303. A bill for the relief of Elizabeth Miller Owen and Brian Ross Owen; to the Committee on the Judiciary.

By Mr. LUGAR (for himself and Mr. PRYOR):

S. 3304. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to clarify application of the Act with respect to nitrogen stabilizers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MURKOWSKI:

S. 3305. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRYAN:

S. 3306. A bill 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; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMON (for himself and Mr. SARBANES):

S. 3307. A bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement; to the Committee on Labor and Human Resources.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3308. A bill to amend the Wild and Scenic Rivers Act by designating certain tributaries of the Maurice River in the State of New Jersey as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 3309. A bill to amend the Peace Corps Act to authorize appropriations for the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes; considered and passed.

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. BUMPERS, Mr. LEAHY, Mr. DASCHLE, Mr. WELLSTONE, Mr. KASTEN, Mr. HARKIN, Mr. PRYOR, Mr. GLENN, Mr. RIEGLE, Mr. BAUCUS, Mr. EXON, Mr. DURENBERGER, Mr. KOHL, and Mr. BURNS):

S. 3310. A bill to amend the Consolidated Farm and Rural Development Act and Farm Credit Act of 1971 to establish a program to aid beginning farmers and ranchers, to improve the operation of the Farmers Home Administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. DOLE, Mr. PRYOR, Mr. LUGAR, Mr. HARKIN, Mr. SEYMOUR, Mr. CONRAD, and Mr. DASCHLE):

S. 3311. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to better assist children in homeless shelters, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. ADAMS, Ms. MIKULSKI, Mr. D'AMATO, Mr. DURENBERGER, Mr. SIMON, Mr. HATFIELD, Mr. JEFFORDS, Mr. BINGAMAN, Mr. BIDEN, Mr. INOUYE, Mr. DECONCINI, and Mr. HATCH):

S. 3312. A bill entitled the "Cancer Registries Amendment Act; considered and passed.

By Mr. BREAUX:

S. 3313. A bill to amend the Immigration and Nationality Act to accord nonimmigrant alien status to certain alien crewmen aboard fishing vessels of United States registry; to the Committee on the Judiciary.

By Mr. DANFORTH (for himself, Mr. BOND, Mr. COCHRAN, Mr. SMITH, Mr. SYMMS, Mr. STEVENS, Mr. HATCH, Mr. GARN, Mr. BURNS, Mr. D'AMATO, Mr. EXON, Mr. PRESSLER, Mr. MURKOWSKI, and Mr. JOHNSTON):

S.J. Res. 345. A joint resolution proposing an amendment to the Constitution of the United States to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. PELL, Mr. HELMS, Mr. LEVIN, and Mr. BRADLEY):

S. Con. Res. 140. A concurrent resolution relating to humanitarian relief and the human rights situation in Sudan; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 3302. A bill to require the Secretary of the Treasury to mint coins in commemoration of women who have served in the Armed Forces of the United States; to the Committee on Banking, Housing, and Urban Affairs.

WOMEN IN THE ARMED FORCES COMMEMORATIVE COIN ACT

Mr. SPECTER. Mr. President, as ranking member of the Committee on Veterans' Affairs, I am pleased to introduce legislation to authorize the Secretary of the Treasury to mint a coin commemorating women who have

served in the Armed Forces of the United States.

This bill would help to provide the Women in Military Service Memorial Foundation, a private foundation authorized in 1986 to oversee the creation of a Women In Military Service Memorial, with the additional funds necessary to build their memorial. In enacting legislation to help raise funds for the creation of the memorial, this body has the opportunity to honor the more than 1.8 million women who served or are serving in the Armed Forces since the American Revolution.

Mr. President, last fall the Women in Military Service Memorial foundation was granted a 2-year extension to complete design specifications and to raise funds for the memorial. Thus, it is important that we move as quickly as possible to pass this piece of legislation. Recently, a design team was awarded a contract to build a beautiful monument with views of Arlington National Cemetery and the monuments of Washington. Now we can do our part by enacting this piece of legislation.

The women who served this country deserve no less than a national memorial recognizing their contributions to the Armed Forces. I urge my colleagues to support this important measure.

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By Mr. GRASSLEY:

S. 3303. A bill for the relief of Elizabeth Miller Owen and Brian Ross Owen; to the Committee on the Judiciary.

RELIEF OF ELIZABETH MILLER OWEN AND BRIAN ROSS OWEN

• Mr. GRASSLEY. Mr. President, today I am introducing legislation to redress the unfair naturalization circumstances of Mrs. Elizabeth Miller Owen of Centerville, IA, and her husband Brian Ross Owen.

Mrs. Owen was born in West Germany to German parents in 1965. Shortly thereafter she was adopted by Charles and Beatrice Miller. Mr. Miller was a U.S. Army officer at the time, while Mrs. Miller was operating a business in Britain. Elizabeth lived with her mother in London until September 1973, when the family relocated to the United States.

From 1973 to 1986, Mr. Miller was seriously ill with cancer, which required the amputation of both his legs and 11 surgical procedures, and also suffered consequent mental illness. He died in 1986. The family had relied on him to handle the childrens' naturalization, and Mrs. Miller presumed he had gotten Elizabeth naturalized just as he had the three other German children the Millers adopted. Throughout this period Elizabeth attended public schools, held a social security card, paid taxes, and generally lived under the assumption that she was a U.S. citizen.

This assumption was dispelled when, after graduation from Drake University in Des Moines, Elizabeth decided to travel to South Africa to be with her future husband, Brian Owen, who she had met in the United States. She discovered that the only passport she had was German, from her infancy, and that she had apparently never been naturalized by her adoptive parents.

Elizabeth consulted an immigration lawyer in Des Moines before leaving on her overseas journey in 1988. He told her she could leave without getting naturalized, and advised her of the need to get a re-entry permit, but not of the naturalization consequence of staying abroad for more than a year. The consequence is an interruption of the 5-year permanent residency requirement that is prerequisite to naturalization. In South Africa, Elizabeth married Brian Owen, and decided to stay with him beyond 1 year while he settled his affairs so they could relocate to the States. She was improperly advised by the United States Government representative in South Africa that there would be no adverse immigration/naturalization consequences if she stayed in South Africa longer than a year. Relying on this information, Elizabeth stayed in South Africa for 16 months.

In short, after 15 years continuous permanent residence in the United States and a lifetime as the child of U.S. citizens, Elizabeth stayed abroad 4 months too long, interrupting her residence for naturalization purposes. She must therefore reside here another 5 years to be eligible for citizenship.

This unfortunate circumstance would be tolerable if Elizabeth were unmarried and childless. Since she is married to a foreign national, and the mother of a newborn U.S. citizen child, the practical effect of her legal situation is to deny her the possibility of ever becoming a U.S. citizen. For, unless Brian can immigrate to the United States immediately, the Owens will be required to return to South Africa with their child. Elizabeth would then be unable to satisfy the residency requirement for naturalization. If she wants to stay here and satisfy the legal requirements of citizenship, she must wait 2 years before her husband will be allowed in the country as a permanent resident.

The application of the standard rules of law and immigration regulations in this case is entirely unreasonable. Elizabeth Miller Owen, as the adopted child of American citizens, who relied on her late father to process her naturalization papers, should not be penalized for his failure to do so as a consequence of the illness which killed him. She should be able to enjoy all the rights of citizenship, just as she has borne all the obligations of U.S. citizenship her entire life. She should not be denied the consortium and support of her foreign spouse because of her absurd legal situation.

This bill which I am introducing today will rectify the Owen's situation. It will require Elizabeth to be considered to have satisfied the residency requirements of the Immigration and Nationality Act, and allow Brian Ross Owen to be lawfully admitted to the United States as a permanent resident.

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. 3303

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

**SECTION 1. WAIVER OF PERIOD OF RESIDENCY REQUIREMENT FOR ELIZABETH MILLER OWEN.**

(a) WAIVER.—Elizabeth Miller Owen shall be considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States, and, notwithstanding section 310(d) of that Act, may be naturalized if she is otherwise eligible for naturalization under that Act.

(b) LIMITATION OF WAIVER.—Subsection (a) shall apply only if Elizabeth Miller Owen files an application for naturalization within two years after the date of the enactment of this Act.

**SEC. 2. PERMANENT RESIDENCE FOR BRIAN ROSS OWEN.**

(a) GRANTING OF STATUS.—In the administration of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Brian Ross Owen shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee.

(b) REDUCTION OF NUMBER OF AVAILABLE VISAS.—Upon the granting of permanent residence to Brian Ross Owen as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by one number during the current fiscal year the total number of immigrant visas available to natives of the country of the alien's birth under subsection (a) or (b) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153).•

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By Mr. LUGAR (for himself and Mr. PRYOR):

S. 3304. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to clarify application of the Act with respect to nitrogen stabilizers; to the Committee on Agriculture, Nutrition, and Forestry.

NITROGEN STABILIZERS AND WATER QUALITY

• Mr. LUGAR. Mr. President, as you and many of my colleagues are aware, agricultural nonpoint source pollution regarding nutrient contamination in surface and ground water is an important concern for agricultural producers in Indiana and across the Nation. Agricultural producers are continually adopting best management practices and seeking new tools to minimize impacts on the environment while maintaining production efficiency.

The use of nitrogen stabliizing ingredients is one tool which seems to show

promise in reducing nitrate contamination of ground and surface water from fertilizers, especially in water quality sensitive areas. It has come to my attention that ambiguities in current law have resulted in regulatory uncertainty, limiting the marketing and use of these products. Our laws should promote, not discourage, the development and use environmentally beneficial technologies.

Today, Senator PRYOR and myself are jointly introducing a bill which amends the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA] to clarify the application of the act with respect to nitrogen stabilizers. Our goal is to accelerate the research, registration and use of products designed to improve environmental protection; in this case, water quality. The bill outlines one approach for the regulation of these products. We offer this bill to bring attention to the issue, and for purpose of generating the discussion and dialog necessary for a full debate of these complex issue next year.

It should be noted the provisions of this bill represent more than a year and a half of negotiation and compromise on the part of industry, regulators and agriculture. The language in this bill has been agreed to by the Environmental Protection Agency and the United States Department of Agriculture.

I'd like to thank Senator PRYOR in joining me in this effort and look forward to working with him and others when FIFRA is debated and reauthorized in the next Congress.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 3304

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

**SEC. 1. DEFINITIONS.**

Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "or dessicant" and inserting "desiccant, or nitrogen stabilizer";

(B) by striking "and" at the end of paragraph (3);

(C) by striking the period at the end of paragraph (4) and inserting "; and "; and

(D) by adding at the end the following new paragraph:

"(5) in the case of a nitrogen stabilizer, an ingredient that will, through action upon soil bacteria, prevent or hinder the process of—

"(A) nitrification;

"(B) denitrification;

"(C) ammonia volitilization; or

"(D) urease production";

(2) in subsection (u)—

(A) by striking "and" before "(2)"; and

(B) by inserting "and (3) any nitrogen stabilizer," after "dessicant,"; and

(3) by adding at the end of the following new subsection:

"(hh) NITROGEN STABILIZER.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'nitrogen stabilizer' means any substance or mixture of substances that is intended, through action upon soil bacteria, to prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production.

"(2) EXCLUSION.—The term shall not include any substance or mixture of substances—

"(A) that was not registered pursuant to section 3 prior to January 1, 1992; and

"(B) that was used in a commercial agronomic use prior to January 1, 1992, with respect to which after January 1, 1992, the distributor or seller of the substance or mixture has made no specific claim relating to the prevention of hindering of any of the processes described in paragraph (1), regardless of the actual use or purpose for, or future use or purpose for, the substance or mixture.".

**SEC. 2. EXEMPTION.**

Section 3(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(f) is amended by adding at the end of the following new paragraph:

"(4) MIXTURES OF NITROGEN STABILIZERS AND FERTILIZER PRODUCTS.—

(A) Any mixture or other combination of—

"(i) one or more nitrogen stabilizers; and

"(ii) one or more fertilizer products, shall not be subject to the requirements of this section or sections 4, 5, 7, 8, 15, and 17(a) (except for the requirements referred to in the conditions described in subparagraph (B)) if the conditions described in subparagraph (B) are met.

"(B) The conditions described in this subparagraph are as follows:

"(i) The mixture or other combination is accompanied by the labeling required under this Act for the nitrogen stabilizer contained in the mixture or other combination.

"(ii) The mixture or other combination is mixed or combined in accordance with the labeling referred to in clause (i).

"(iii) Other than a nitrogen stabilizer, the mixture or other combination does not contain any active ingredient.".

**SEC. 3. CONFORMING AMENDMENTS.**

The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended—

(1) by adding at the end of the items relating to section 2 the following new items:

"(hh) Nitrogen stabilizer.

"(1) In general.

"(2) Exclusion.";

and

(2) by adding at the end of the items relating to section 3(f) the following new item:

"(4) Mixtures of nitrogen stabilizers and fertilizer products.".

• Mr. PRYOR. Mr. President, I am pleased to join with my colleague from Indiana, Senator LUGAR, in introducing a bill that will assist in enhancing agricultural production potential as well as reduce any environmental harm caused by such production.

This legislation proposes to assure that nitrogen stabilizing fertilizers, which reduce nitrate contamination in ground and surface water, are made more readily available for us in agricultural production.

However, it has recently come to my attention that a regulatory logjam has developed between the Department of Agriculture and Environmental Protection Agency over the regulation of nitrogen stabilizers. This regulatory uncertainty is limiting the marketing and use of these environmentally sound products.

Today Senator LUGAR and myself are jointly introducing a bill that works to break that logjam by amending the Federal Insecticide, Rodenticide and Fungicide Act and clarifying how nitrogen stabilizers are to be registered and regulated for future use by farmers. After more than a decade of regulatory stalemate on this issue and after more than a year of work and compromise on the part of industry, regulators and agriculture, EPA and USDA have agreed on the language contained in this bill regarding this important environmental issue.

Nitrogen stabilizers can be important tools for improving water quality and reducing the potential for nitrate ground water contamination. Again, this bill breaks the regulatory logjam between EPA and USDA and, if adopted, will accelerate the research, registration and use of products designed to improve farm production efficiency and environmental protection.

I'd like to thank Senator LUGAR in joining me in this effort and look forward to working with him and others when FIFRA is considered in the next Congress.•

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By Mr. MURKOWSKI;

S. 3305. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

CONVEYANCE OF CERTAIN REAL PROPERTY

• Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation which would convey certain property located in the Tongass National Forest to Daniel J. Gross, Sr., and to his brother, Douglas K. Gross.

In the early 1930's Mr. William Lee Gross and his wife Bessie Knickerson Gross homesteaded 160.8 acres of land at Green Point on the Stikine River. The Gross family lived at Green Point for several years and have claimed title to the land since the 1930's. Unfortunately, the legal documents that conveyed title of the land to the Gross family were destroyed when their home burned in Wrangell during the winter of 1935–36.

Mr. President, the Gross family should not be punished because the title to their land was destroyed in a fire. The title to their land was destroyed in 1936, 22 years before Alaska became a State. In 1936, Wrangell, AK, was truly the last frontier. There were no modern conveniences, no computers to store information in the unlikely event of fire.

The Gross family is the victim of a unfortunate accident, and the U.S. Forest Service is turning their back on the

family. Imagine the Federal Government telling victims of Hurricane Andrew the Federal Government was reclaiming title to an individuals land because the legal documents were destroyed in a fire caused by the hurricane.

Mr. President, the Gross family deserves better treatment from the Forest Service. They have given to the State of Alaska and to the country. Mr. William Lee Gross was a private in the U.S. Marines during the Spanish-American War. Mrs. Bessie Knickerson Gross was a Tlingit Indian. William and Bessie are no longer living. Douglas and Daniel are the children of William and Bessie Gross. They are very well known in the Wrangell community. Douglas Gross, who is 70-years-old, worked for the Bureau of Indian Affairs for 25 years. Doug was in the Army as a technician 5th grade in chemical warfare. He operated an anti-aircraft gun in WW II. Daniel Gross, who is 72 years old, was a sergeant on a crash boat in the Aleutian Chain. Their older brother, William Lee Gross, Jr., now deceased, was a technical sergeant and also served on crash boats in the Aleutians during the war. Their youngest brother, Harvey B. Gross was a corporal during the Korean war. All four men were honorably discharged.

Mr. President, Dan and Doug Gross are old timers from Alaska who have been seeking title to their land for decades. Despite overwhelming support from the local community, and substantial evidence submitted by the Gross family, the Forest Service has refused to convey title of the land at Green Point to Doug and Dan Gross. For this reason, I am introduction legislation to resolve this issue.

Doug and Dan are seeking help. They don't have insider influence in Washington, DC, no lobbyist, no special interest group, no Political Action Committee. Doug and Dan Gross are ordinary people who have come up against a bureaucracy that threatens to dismiss over 50 years of their family history. I cannot allow this to happen.

As their Senator, I will be working during the coming months to correct this injustice.●

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By Mr. SIMON (for himself and Mr. SARBANES):

S. 3307. A bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement; to the Committee on Labor and Human Resources.

ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA ACT

● Mr. SIMON. Mr. President, I am pleased to be joined by my colleague from Maryland, Senator SARBANES, in introducing the Elementary and Secondary School Library Media Services Act.

The legislation we are introducing today is intended as a discussion piece for the reauthorization of the Elementary and Secondary Education Act [ESEA] next year. We are encouraging elementary and secondary school librarians to take a look at our legislation and provide us with their expertise. It might be good to hear from the students as well.

It is my understanding that in a few weeks the American Association of School Librarians will hold their national conference in my colleague's home State of Maryland. Perhaps this would provide an opportunity for comment and discussion.

The merger of programs in chapter 2 of the ESEA has resulted in a serious decline of funding for elementary and secondary school libraries. Out Nation's school libraries are now dependent upon a core of deteriorating and out-of-date library materials purchased with funding from the original ESEA in 1965. Small and rural school libraries are further disadvantaged because of smaller budgets based on low student enrollments and limited access to resources, services, and personnel.

If we are to prepare our Nation's children for the challenges of the future, as well as keeping our Nation competitive in a global economy with its growing technology, every school in the United States must be equipped with the best and most up-to-date library and information resources.

The legislation I am introducing today would help prepare our Nation's children for the future.

The Elementary and Secondary School Library Media Act would establish a new division of Elementary and Secondary School Library Media Services in the Department of Education to provide information and leadership to school library media programs and personnel nationwide.

In addition, three grant programs are to be established within the new division of Elementary and Secondary Library Media Services. One program would be a direct allocation to the States for the acquisition of library resources, and the other two would be competitive grants to encourage library media specialists and teacher partnerships in innovational instruction and in expanded uses of technology.

The American Library Association has been very active in trying to restore support for elementary and secondary school libraries. To that end, the ALA has published a fact sheet on school library media programs. I ask unanimous consent to have the ALA's fact sheet included in the RECORD after my remarks.

Mr. President, I urge my colleagues to review this important legislation. I also encourage them to talk to their local elementary and secondary school librarians and students. I look forward to working with them next year on improving and moving this legislation forward.

I ask unanimous consent that the text of the bill follow my statement.

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

S. 3307

*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 "Elementary and Secondary School Library Media Act".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress finds that—

(1) in order to prepare our Nation's children for the challenges of the future, as well as keeping our Nation competitive in a global economy, every elementary and secondary school in the United States should be equipped with the best and most up-to-date library resources, certified library media specialists, access to advanced technology, and instruction on the use of library and information resources;

(2) our Nation's elementary and secondary school libraries are primarily dependent on a core of deteriorating and out-of-date library materials purchased with original funding from the Elementary and Secondary Education Act of 1965;

(3) school library media center expenditures, when adjusted for inflation, have declined 16 percent in public schools since 1979; and

(4) small and rural school libraries are further disadvantaged because of small budgets based on low student enrollments, and limited access to resources, services, and personnel.

(b) STATEMENT OF PURPOSES.—It is the purpose of this Act to—

(1) establish within the Department of Education Office of Educational Research and Improvement a Division of Elementary and Secondary School Library Media Services to provide information and leadership to school library media programs and personnel nationwide;

(2) provide continued funding for elementary and secondary school library media program improvement, equity, innovation, and technological advancement;

(3) establish a partnership program for elementary and secondary school teachers and school library media specialists to jointly design resource and curriculum-based instructional activities that provide opportunities for students to access a broad diversity of resources and information, and other languages and cultures, including materials that will encourage understanding; and

(4) establish a partnership program for encouraging uses of technology and the sharing of information and access to resources by elementary and secondary school students, school library media specialists, and teachers.

**SEC. 3. ESTABLISHMENT AND FUNCTIONS OF THE DIVISION OF ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA SERVICES.**

(a) DIVISION ESTABLISHED.—Section 209 of the Department of Education Organization Act (20 U.S.C. 3419) is amended—

(1) by inserting "(a) OFFICE.—" before "There"; and

(2) by adding at the end the following new subsection:

"(b) DIVISION.—There is established within the Office of Educational Research and Improvement a Division of Elementary and Secondary School Library Media Services, to be administered by a Director of such Division.".

(b) FUNCTIONS.—The Division of Elementary and Secondary School Library Media Services established in section 209(b) of the Department of Education Organization Act shall—

(1) provide information and leadership to elementary and secondary school library media specialists, teachers, and school administrators in order to encourage improvement of educational programs, train library personnel, use advanced technology, and develop library resources, including resources that will encourage students to acquire skills in other languages; and

(2) monitor and administer—

(A) the grant programs for elementary and secondary school library media center resource development;

(B) elementary and secondary school library media specialist and teacher partnership grants for innovative education; and

(c) grants for uses of technology in the classroom that are linked to the library media center.

**SEC. 4. ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA PROGRAM.**

(a) ESTABLISHMENT OF THE ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA RESOURCE DEVELOPMENT PROGRAM.—The Director shall award grants from allocations under subsection (b) to States for the acquisition of school library media resources for the use of students, library media specialists, and teachers in public elementary and secondary schools.

(b) ALLOCATION TO STATES.—From the amount appropriated pursuant to the authority of subsection (e) in each fiscal year, the Director shall allocate to each State having an approved plan under subsection (c) an amount which bears the same relationship to such funds as the amount such State received under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 bears to the amount all States received under such chapter in each such year.

(c) STATE PLANS.—In order for a State to receive an allocation of funds under subsection (b) for any fiscal year such State shall have in effect for such fiscal year a State plan. Such plan shall—

(1) designate the State educational agency as the State agency responsible for the administration and supervision of the program described in this section; and

(2) set forth a program under which funds paid to the State from its allocation under subsection (b) will be expended solely for—

(A) acquisition of school library media resources, including foreign language resources, for the use of students, school library media specialists, and teachers in elementary and secondary schools in the United States; and

(B) administration of the State plan, including development and revision of standards relating to school library media resources, except that the amount used for administration of the State plan in any fiscal year shall not exceed 5 percent of the amount allocated to such State under subsection (b) for such fiscal year; and

(3) set forth the criteria to be used in allotting funds for school library media resources among the local educational agencies of the State, which allotment shall take into consideration the relative need of the students, school media specialists, and teachers to be served.

(d) DISTRIBUTION OF ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—

(1) DISTRIBUTION RULE.—From the funds allocated to a State under subsection (b) in each fiscal year, such State shall distribute not less than 95 percent of such funds in such year to local educational agencies within such State according to the relative enrollment of students in public elementary and secondary schools within the school districts of such State, adjusted to provide higher per-pupil allotments to local educational agencies that have the greatest number or percentages of students whose education imposes a higher than average cost per child, such as those students——

(A) living in areas with high concentrations of low-income families;

(B) from low-income families; and

(C) living in sparsely populated areas.

(2) CALCULATION OF ENROLLMENT.—The calculation of relative enrollments under paragraph (1) shall be made on the basis of the total number of students enrolled in public schools in the State.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

**SEC. 5. ESTABLISHMENT OF THE SCHOOL LIBRARY MEDIA SPECIALIST AND TEACHER PARTNERSHIPS FOR INSTRUCTIONAL INNOVATION PROGRAM.**

(a) PROGRAM ESTABLISHED.—The Director shall award grants for projects that—

(1) encourage collaboration between public elementary and secondary school library media specialists and teachers in order to develop units of instruction that enable elementary and secondary school students to use a variety of information resources; and

(2) expand students' information-gathering abilities and cognitive skills of selection, analysis, evaluation, and application.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

**SEC. 6. ESTABLISHMENT OF THE USES OF TECHNOLOGY IN THE CLASSROOM PROGRAM.**

(a) PROGRAM ESTABLISHED.—

(1) IN GENERAL.—The Director shall award grants to encourage collaborative elementary and secondary school library media specialist and teacher programs designed to—

(A) expand the use of computers and computer networks in the curriculum; and

(B) enable elementary and secondary school library media centers to access information from computerized databases.

(2) COOPERATIVE AGREEMENTS.—The Director may enter into cooperative agreements with the National Science Foundation and other appropriate nonprofit agencies and organizations in carrying out this section.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $40,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

**SEC. 7. CONSTRUCTION.**

Nothing in this Act shall be construed to interfere with State and local initiative and responsibility in the conduct and support of school library media services, the administration of school library media centers, or the selection of personnel or library books and materials.

**SEC. 8. SUPPLEMENTATION.**

Funds provided under this Act shall be used so as to supplement and not supplant other Federal, State, or local funds available to carry out the activities and services assisted under this Act.

**SEC. 9. DEFINITIONS.**

For the purpose of this Act—

(1) the term "Director" means the Director of the Division of Elementary and Secondary School Library Media Services established pursuant to section 209(b) of the Department of Education Organization Act;

(2) the term "elementary school" has the same meaning given to such term by section 1471(8) of the Elementary and Secondary Education Act of 1965;

(3) the term "local educational agency" has the same meaning given to such term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

(4) the term "secondary school" has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965;

(5) the term "State" means each of the several State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianna Islands, the Republic of the Marshall Islands, the Federated State of Micronesia, and the Republic of Palau; and

(6) the term "State educational agency" has the same meaning given to such term by section 1471(23) of the Elementary and Secondary Education Act of 1965.

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AASL FACT SHEET—SCHOOL LIBRARY MEDIA PROGRAMS

BACKGROUND INFORMATION

Most U.S. Schools have been built from 1948–1985.

A vast majority of the approximately 51,000,000 students in public schools come from urban environments. New York City alone has nearly 1,000,000 students.

51 million students attend public schools and 8 million attend private schools.

The average age of most books is in the late 1960's when large amounts of federal, state and local funds were expended on school libraries.

Most schools are wired for television, but not for computer networks.

Most micro-computers in schools are older and only used for student instructional purposes or administrative purposes, but not both.

GENERAL EDUCATION STATISTICS FROM DIGEST OF EDUCATION STATISTICS 1991 (NOVEMBER 1991)

Enrollment (K–12), 51,041,000—Public, 8,298,000—Private.

Teachers (K–12) 2,890,000—Public 598,000–Private.

Volunteers (K–12) 38,042,000.

Principals (K–12) 77,890—Public, 25,401—Private.

Largest School Districts (K–12)

| | |
|---|---|
| 1. New York City | 930,440 |
| 2. Los Angeles Unified | 609,746 |
| 3. Chicago City | 408,442 |
| 4. Dade County (FL) | 279,420 |
| 5. Philadelphia City | 189,451 |
| 6. Houston City | 185,566 |
| 7. Detroit City | 175,436 |
| 8. Hawaii | 169,493 |
| 9. Broward County (FL) | 148,803 |
| 10. Fairfax County (VA). | 126,790 |
| 11. Dallas City | 125,897 |
| 12. Hillsborough County (FL) | 119,811 |
| 13. San Diego City | 119,314 |
| 14. Clark County (NV) | 111,460 |
| 15. Baltimore City | 107,782 |
| 16. Prince Georges County (MD) | 106,974 |
| 17. Duval County (FL) | 106,593 |
| 18. Memphis City | 104,410 |
| 19. Montgomery County (MD) | 100,261 |
| 20. Palm Beach County (FL) | 98,705 |
| Total | 4,324,794 |

Note.—Nearly 10 percent of the U.S. students.

LEARNING RESOURCES AND TECHNOLOGY STATISTICS FROM DIGEST OF EDUCATION STATISTICS 1991 (NOVEMBER 1991)

Access to information has been widely cited as the key to success in a growing number of endeavors. Thus, how information is made available and to whom become matters of concern.

In fall 1985, almost 94 percent of all public schools and 75 percent of all private schools had libraries or media centers.

During the 1984–85 school year, public school libraries held an average of 7,668 book titles, 34 periodical subscriptions, 353 audio materials, and 540 films and filmstrips.

The number of public schools using microcomputers has risen rapidly in recent years. Between fall 1981 and fall 1986, the proportion of public schools with computers rose 18 percent to 96 percent.

About 36 percent of all American workers used computers on their jobs in October 1989. The percentages ranged from 7 percent for workers who did not complete high school to 58 percent for those with 4 or more years of college. Women who have not completed college were more likely to use computers than men who have not completed college. For men and women who have completed 4 years of college, the percentages using computers were about the same. Computer users with higher levels of education were more likely to use their computers for more diverse applications than those with lower levels of education.

The total computer usage rate of students at school increased from 27.3 percent in October 1984 to 42.7 percent in October 1989. The rate at the pre-kindergarten and kindergarten level increased more than twofold. The rate at the first-through eighth-grade level increased by about two-thirds.

More than half (52 percent) of all elementary school children used computers at school in October 1989. The computer usage rate was 39 percent for students in high school and college. Sizeable percentages of students used them for schoolwork. About 18 percent of elementary school children used computers at home and about 6 percent used them for schoolwork. Students at the high school and undergraduate level were about twice as likely as the elementary school children to use home computers for schoolwork. In general, students in higher income families were more likely to use computers at home and use them for schoolwork than were students from lower income families.

ESEA CHAPTER II BACKGROUND

Because of the merger of programs in Chapter 2 of ESEA, there is now competition for resources among educational programs which should be partners. During the 1960's, Title II of ESEA provided the impetus for establishing libraries in most elementary schools and strengthening secondary school libraries. By the early 70's, many states even had full-time professional librarians managing most of their elementary and secondary libraries. Statistical evaluation indicated that the disparity of library materials and A–V equipment between schools was narrowing. With the advent of ESEA Chapter 2 during the late 70's and 80's, the disparity in library media collections and equipment between schools widened to a near chasm.

DISPARITY OF COLLECTIONS

A good example is: Broward County Schools (Ft. Lauderdale, Florida), where their local paper reported library spending ranging from $1.59 per student in one elementary school to $57.00 per student in another. Middle School and high school disparities are similar. These same reports are echoed nationwide.

EFFECTS ON STUDENT PERFORMANCES AND ACHIEVEMENT

Analyses of schools that have been successful in promoting independent reading suggest that one of the keys is ready access to books. However, fully 15% of the nation's schools do not have libraries. In most of the remaining schools, the collections are small, averaging just over 13 volumes per student.—"Becoming a Nation of Readers," 1985

Schools should maintain well-stocked and managed libraries. Access to interesting and informative books is one of the keys to a successful reading program. As important as an adequate collection of books is a librarian who encourages wide reading and helps match books to children.—"Becoming a Nation of Readers."

SchoolMatch (800–992–5323), in Westerville, Ohio, will send you information on school districts in the area to which you're moving. You fill out a questionnaire listing your priorities and SchoolMatch searches its data base for 15 school systems that come closest to meeting your needs (there are separate questionnaires for private schools). The service, which costs $97.50, sometimes yields surprising results, says company president William Bainbridge, a former superintendent schools. For instance, SchoolMatch research indicates that the most important measures of a school district's success are not its tax base or property values but the education level of parents and the amount of money spent on library and media service.—"Changing Times," August 1990.

SchoolMatch, a company in Ohio which is in the business of providing budget information to school districts, so they can determine where priorities should be placed on spending, or how they compare with other similar or competitive school districts, released the following findings.

Comparative financial information for 15,892 public school systems in the U.S.; 14,856 private schools in the U.S.; and accredited American Schools throughout the world.

Multiple regression and discriminate function analysis was used to analyze the various spending categories in all school system budgets.

There is a stronger correlation between library and media expenditures and student achievement and student performance on scholarship exams than any other expenditure in the school. Of all expenditures that influence a school's effectiveness—including those for facilities, teachers, guidance services, and others—the level of expenditures for library and media services has the highest correlation with student achievement and performance on scholarship exams. The correlation is beyond the traditionally held view that school systems with bright students and parents will spend more money for libraries and media.

In a personal interview, Dr. William L. Bainbridge, the head of the company and a former school superintendent from a conservative state, related that:

"A school System can get 'more bang for the buck' by putting a priority on expenditure for the library media program". He further stated that:

I was personally surprised by the result and would not have believed the findings until I double checked the calculations.—"School Match Report," 1987

A small amount of Chapter 2 funding can make a significant difference in increasing student achievement and success.

Chapter 2 funding improves student's opportunities for learning.

The Chapter 2 program acts as a catalyst for school improvements and creative risk-taking.

School districts praise chapter 2 for enabling local schools to have local control to meet local educational needs.—"Indiana Chapter 2 Evaluation Report" by Dr. Teresa L. Jump, independent educational consultant, 1992

Access to the library media collection is the single best school predictor of student achievement.

The instructional role of the library media specialist affects the library media collection an, in turn, student achievement.

The degree of collaboration between library media specialist and teachers is affected by the ratio of teachers to pupils.—Colorado Study of 221 public schools, 1992

Library media expenditures affect access to the library media program and, in turn, student achievement.—Colorado Study of 221 public schools, 1992

COSTS FOR LIBRARY MEDIA RESOURCES

We need a basic expenditure of at least $20.00 per student, with the federal government sharing 50%, state 25%, and local 25%. Most of our school districts in the U.S. are strapped to the point that 90% of their budgets go for salaries and building operations (heat, cooling, lights, etc.). At $10.00 per student, we are talking about $400,000,000 plus for public schools and $20,000,000 for private schools. In other words, the total Chapter 2 allocation or a new chapter (In 1966–67, $2.00 per student was allocated for Title II).

The Florida Department of Education analyzed the cost factors for purchasing state rights to copy video programs versus individual school districts:

| Sample Video Series | A | B | C |
|---|---|---|---|
| Three year State lease | $20,904 | $9,373 | $8,814 |
| Lease by 67 school districts | 174,814 | 128,520 | 122,094 |
| Individual copy with no rights | 844 | 1,495 | 444 |
| 67 school districts with no rights | 56,601 | 100,165 | 29,748 |

Thus, it would be very cost effective to arrange state leases with copy privileges and let individual districts copy for their own use, those videos they want.—Florida Department of Education, 1991

Nearly half of the nonfiction books on the shelves of most Indiana school libraries are over twenty years old, out-of-date and have misleading information.—"Indiana Legislative Report" by Daniel Callison, 1990

In the area of space exploration, over half of the books on the shelves were written prior to the United States landing a man on the moon.

In the area of civil rights, most of the materials on the shelves were written during the dramatic changes initiated in the 1960s and few reflect the progress in human rights for minorities, the handicapped, and women over the past decade.

In the areas of geography and travel, most of the books on the shelves present a world as it existed twenty to forty years ago showing out-of-date maps and out-of-date political relationships.

In the area of biological science, few books on the shelves of our school libraries discuss the dramatic advances in discoveries related to modern knowledge of genetic structures.

In the area of career education, most of the materials available to our children through school libraries describe career opportunities as they existed over two decades ago. For example, women are often not included as part of the professional arena beyond the careers of teaching and nursing.—Report by Roger

Whayle, Director of Media Services at New Albany-Floyd County Consolidated Schools and Lauralee Foerster, Coordinator of Media Services for the Lafayette School Corporation.

School library media center expenditures, when adjusted for inflation, have declined 16 percent in public schools and 14 percent in private schools since 1978–79.

The median per-pupil expenditure by school libraries in 1989–90 was $5.48—less than half the average cost of a children's book.

The average price of a hardcover book more than doubled from $19 to $40 between 1977 and 1990.

The average price of U.S. periodicals increased about 400 percent over the same period.—"ALA Fact Sheet," by ALA Public Information Office, 1991.

EXAMPLE OF A MODEL LIBRARY MEDIA FACILITY AND RESOURCES

Bonifay High School (500 students) (30 teachers), opened a new building in February 1992. Each classroom has a color monitor computer and a television monitor, connected to the library media center using a local area network (LAN). There are 8 VHS video recorders connected to each classroom, so on any given day, teachers and students can have access to 8 programs directly from the library media center. There will be other recorders on carts, which can be loaned to classrooms, when needed. The card catalog also is available on-line. This school dates back to the 1920's, so they have discarded most of their collection and have purchased 2,500 new books. Teachers can request a videotape using their school-wide intercom/telephone system and can access the school's online library media catalog through their classroom computer network.

A complete television studio is operational, producing a weekly news show and specials. Four students are assigned each period, so 28 students are enrolled in the television production course. Eventually, 4 video laserdisk players and 4 (25") video monitors will be placed on carts, so they can be connected to the classroom computers for interactive video activities. Teachers at that right teaching moment can type into their computer, isosceles triangle, mule deer, etc. and the proper illustration, action segment or picture instantly becomes available.

In June 1992, three interactive CD–ROM's were added to the LAN. An electronic encyclopedia, almanac and SIRS can be accessed simultaneously by up to 40 terminals.

Approximate investment:

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|---|---|
| 36 Television Monitors $400 | $14,400 |
| 45 Color Monitor Micros $2,500 | 112,500 |
| 8 VHS Video Recorders $400 | 3,200 |
| 3 CD–ROM Players $800 | 2,400 |
| 8-Channel Video System, Computer System, CD–ROM System, wiring and outlets in classrooms | 46,000 |
| 2,500 Books $20 | 50,000 |
| Total | 228,500 |

NOTE.—An expenditure of $457 per student.•

• Mr. SARBANES. Mr. President, I am very pleased to join with Senator SIMON in introducing the Elementary and Secondary School Library Media Services Act, to establish within the Department of Education Library Programs a division of Elementary and Secondary School Library Media Services to provide information and leadership to school library media programs and personnel nationwide. As the 102d Congress draws to a close, it is my hope that this legislation will serve as a model and useful medium for discussion when we consider the reauthorization of the Elementary and Secondary Education Act [ESEA] next year. I am also hopeful that this proposal will facilitate related discussions when the American Association of School Librarians convenes its national conference in Baltimore later this month.

It is in my view imperative that when we consider the future of our Nation, the need to compete in an international economy, and the importance of moving our country forward, we remember the critical need to educate our future work force. In so doing, we must pay close attention to the information center of the classroom—the library, or school library media center as it is often called today. While my memories, and those of many of my colleagues, may revolve around a favorite book, young people of today may have, in addition to books, videotapes, recordings, computer software, CD-ROM's, magazines, newspapers, government documents, and films. The legislation we are introducing today is designed to ensure that this variety of information is available in an equitable manner in school library media centers across the Nation.

Prior to the merger of many education programs into block grants as proposed by the Reagan-Bush administration in the 1980's, a separate categorical program, ESEA title II, existed for school libraries. Because of this program, many school libraries were able to build up core collections which are still in use today. In fact, many libraries have been unable to make any significant changes to their collections since the merger of programs into block grants—a few preliminary surveys have established that in some States the ages of book collections date back as far as 1965, with one junior-senior high school reporting that 55 percent of its school library collection was printed before the school's senior class was born.

Mr. President, a rapidly changing world has highlighted the need to ensure that school libraries are able to bring their collections up to date. One example of this change is the implosion of the former Soviet Union which rendered obsolete a vast array of world atlases, almanacs, encyclopedias, maps, and history books. It is clear that serious and immediate effort is needed to ensure that school library media centers are able to provide students with accurate and timely resource materials. I urge my colleagues to support the legislation introduced today and related efforts to address the critical needs of our school library media centers.•

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By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3308. A bill to amend the Wild and Scenic Rivers Act by designating certain tributaries of the Maurice River in the State of New Jersey as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

WILD AND SCENIC RIVERS ACT AMENDMENTS

Mr. BRADLEY. Mr. President, I rise today to introduce the South Jersey Wild and Scenic River Act. I am proud to have Senator LAUTENBERG join me as a cosponsor. This legislation would designate, according to the wishes of the local communities, 14.3 miles of the Manumuskin River and 2.7 miles of Muskee Creek as National Wild and Scenic Rivers. It also encourages the Secretary of the Interior to continue to work with the communities throughout the Maurice River basin that are interested in planning and preserving the river's unique features.

Pristine doesn't capture the beauty of the Maurice and its tributaries: A great deal of this river system is in nearly the same condition as it was when the Dutch sailing ship *Prince Maurice* foundered here almost four centuries ago.

Its natural beauty and ecological value is irreplaceable. This is the last nesting site in New Jersey for the American bald eagle. It's a winter home for bald and golden eagles, peregrine falcons, and an enormous variety of waterfowl. The Maurice pours its clean waters into the Delaware Bay and fosters the growth of crabs and oysters, on which our watermen depend. Near these streams are perhaps the highest concentration of rare, threatened, or endangered species in the State.

We're at a crossroad: Our actions today will determine what these rivers will look like in the future. The natural qualities I've described have always been there. But they will only continue to be here if the citizens of this area decide positively that they commit themselves to a pristine future for the river.

This isn't an easy decision, and there are high stakes for all of us. This is complex, and, unfortunately, many of the options or paths taken cannot be reversed.

For the last 6 years, the river's future has been debated. This has been a trying experience for many. There have been a lot of concerns expressed, fears of a heavy Federal hand, condemnation, new bureaucracy, hardship for private property owners, and so forth. Even though all aren't participating in the endorsement of Wild and Scenic status, all will be able to see its implications and implementation. It will be up to all of us to see that the many fears aren't realized while the enormous promise is.

Given the continued support of the local citizens, I am ready to push for-

ward this legislation that will secure Wild and Scenic River status for these 17 miles of unique and beautiful waterways.

I ask unanimous consent that the text of the legislation be printed following my remarks.

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

S. 3308

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

**SECTION 1. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1)(A) The Maurice River in the State of New Jersey and its tributaries, Menantico Creek, the Manumuskin River, and Muskee Creek, are eligible for designation as components of the National Wild and Scenic Rivers System.

(B) The segments and their classifications are as follows:

(i) The Maurice River, lower segment, from the United States Geological Survey Station at Shellpile to the Route 548 Bridge at Mauricetown, approximately 7.0 miles, as a recreational river.

(ii) The Maurice River, middle segment, from the Route 670 Bridge at Mauricetown upstream to 3.6 miles of the drainage ditch upstream of Fralinger Farm, approximately 3.8 miles, as a scenic river.

(iii) The Maurice River, middle segment, from the drainage ditch upstream of Fralinger Farm to 3.1 miles upstream to ½ mile upstream from the United States Geological Survey Station at Burcham Farm, approximately 3.1 miles, as a recreational river.

(iv) The Maurice River, upper segment, from ½ mile upstream from the United States Geological Survey Station at Burcham Farm to the south side of the Millville sewage treatment plant, approximately 3.6 miles, as a scenic river.

(v) The Menantico Creek, lower segment, from its confluence with the Maurice River to the Route 55 Bridge, approximately 1.4 miles, as a recreational river.

(vi) The Menantico Creek, upper segment, from the Route 55 Bridge to the base of the Impoundment at Menantico Lake, approximately 6.5 miles, as a scenic river.

(vii) The Manumuskin River, lower segment, from its confluence with the Maurice River to 2.0 miles upstream, as a recreational river.

(viii) The Manumuskin River, upper segment, from 2.0 miles upstream from its confluence with the Maurice River to its headwaters, approximately 12.3 miles, as a scenic river.

(2) A resource assessment of the Maurice River and its tributaries shows that the area possesses numerous outstandingly remarkable natural, cultural, scenic, and recreational resources that are significant at the local, regional, and international levels, including rare plant and animal species and critical habitats for birds migrating to and from the Northern and Southern Hemispheres.

(3)(A) A river management plan for the river system that would meet the requirements of section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)) has been developed by the Department of Planning and Development of Cumberland County, New Jersey, and adopted by the City of Millville, by Maurice River Township, and by Commercial Township, New Jersey.

(B) The City of Vineland, New Jersey, has adopted a master plan that calls for river planning and management and, as of the date of enactment of this Act, is in the process of adopting zoning ordinances to implement the plan.

(C) Buena Vista Township in Atlantic County, New Jersey, has adopted a land use plan consistent with the Pinelands Comprehensive Plan that is more restrictive than the Cumberland County local river management plan.

(b) PURPOSES.—The purposes of this Act are to—

(1) declare the importance and irreplaceable resource value of the Maurice River and its tributaries to water quality, human health, traditional economic activities, ecosystem integrity, biotic diversity, fish and wildlife, scenic open space, and recreation;

(2) recognize that the Maurice River system will continue to be threatened by major development and that land use regulations of the individual local political jurisdictions through which the river segments pass cannot alone provide for an adequate balance between conservation of the river's resources and commercial and industrial development; and

(3) recognize that segments of the Maurice River and its tributaries in addition to those designated under this Act are potentially eligible and suitable for designation at some point in the near future.

**SEC. 2. DESIGNATIONS.**

(a) IN GENERAL.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) MANUMUSKIN RIVER, NEW JERSEY.—(A)(i) From its confluence with the Maurice River to a point 2.0 miles upstream, to be administered by the Secretary of the Interior (referred to in this paragraph as the "Secretary") as a recreational river.

"(ii) From the point 2.0 miles upstream from its confluences with the Maurice River to its headwaters, approximately 12.3 miles, to be administered by the Secretary as a scenic river.

"(B) MUSKEE CREEK, NEW JERSEY.—From its confluence with the Maurice River to the Pennsylvania Seashore Line Railroad Bridge, approximately 2.7 miles, to be administered by the Secretary as a scenic river.

"(C)(i) The Secretary shall administer the river segments designated under this paragraph—

"(I) in association with the political jurisdictions through which the Maurice River and its tributaries pass; and

"(II) in accordance with the local river management plan prepared by the Cumberland County Department of Planning and Development, and plans and ordinances prepared and adopted by the municipal governments of the political jurisdictions referred to in subclause (I).

"(ii) The local river management plan referred to in clause (i)(II) shall be reviewed by the Secretary to ensure that proper implementation of the plan will protect the values for which the segments were designated.

"(iii) The Secretary may—

"(I) provide, on request, planning assistance to the State of New Jersey and to political subdivisions of the State; and

"(II) enter into a memorandum of understanding or a cooperative agreement with another Federal agency or with the State of New Jersey to ensure that Federal and State programs are carried out in a manner that is consistent with the river management plans referred to in clause (i)(II).

"(iv) The Secretary shall review compliance with the locally adopted river management plans referred to in clause (i)(II) on a biennial basis and shall report to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives on a timely basis any deviation from the plans that causes or may result in any diminution of the values for which the segments were designated.

"(D) Section 6(a) shall not apply to the river segments designated by this paragraph.

"(E) For each fiscal year, there are authorized to be appropriated to the Department of the Interior an amount not to exceed $70,000 for planning assistance, biennial review, and reporting for the segments designated by this paragraph, and for negotiating towards possible designation of additional segments of the Maurice River as components of the National Wild and Scenic Rivers System.".

(b) FUTURE DESIGNATIONS.—

(1) CONGRESSIONAL INTENT.—The Secretary of the Interior is encouraged to continue to work with local municipalities to negotiate agreement and support for designating additional eligible segments of the Maurice River and its tributaries as components of the National Wild and Scenic Rivers System.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall issue a report to Congress describing—

(A) the status of the discussions and negotiations with local municipalities referred to in paragraph (1); and

(B) such recommendations concerning the designation of additional river segments in the State of New Jersey as components of the National Wild and Scenic Rivers System as the Secretary of the Interior considers to be appropriate.

Mr. LAUTENBERG. Mr. President, I join with my colleague from New Jersey, Senator BRADLEY, in introducing this legislation to amend the Wild and Scenic Rivers Act to designate certain tributaries of the Maurice River as components of the National Wild and Scenic Rivers System.

In 1987, Senator BRADLEY and I introduced legislation which initiated a study by the National Park Service to evaluate the suitability and feasibility of designating portions of the Maurice River and its tributaries for potential inclusion in the National Wild and Scenic River System. That legislation directed the Park Service to work with the communities to determine which segments of the river and its tributaries were appropriate for designation.

The Park Service recently released a draft study report and I am pleased today to introduce legislation, with Senator BRADLEY, which will enact the Park Service recommendations to designate the Manumuskin River and Muskee Creek as part of the National Wild and Scenic Rivers Program. This legislation respects the individual property owners' rights and the preferences of local governments.

The Wild and Scenic Rivers program aims to bring long-term protection of important natural resources by focus-

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ing on local initiative and management. The Wild and Scenic Rivers Act, enacted in 1968, reflected the national recognition of the need to protect our rivers. It was the intent of Congress to protect rivers and their surroundings for their scenic, recreational, historic, and cultural qualities. The Wild and Scenic Rivers program balances the need for development on rivers with the need to preserve those rivers in their natural, free-flowing condition.

New Jersey is the most densely populated State in the Nation. As a result, preservation, enhancement, and enjoyment of our natural resources is of great value to the people of my State.

Recently, Senator BRADLEY and I introduced legislation which would designate portions of the Great Egg Harbor River as Wild and Scenic. I look forward to its eventual addition to the Wild and Scenic System. Inclusion of the Manumuskin River and Muskee Creek within the system would complement our efforts with the Great Egg Harbor River, and enhance protection of these areas by encouraging Federal, State, and local cooperation.

Mr. President, each time I visit this area of my State I am awestruck by its beauty. Last year I was lucky enough to see a bald eagle. Large portions of the Maurice, Manumuskin, and Manantico lie within the boundaries of the Pinelands National Reserve, one of our most valuable natural resources. It's a part of our State that we New Jerseyans are most proud of and it's a side of New Jersey many people do not know exists.

Local efforts to protect these segments of the river are impressive. I am pleased to lend a Federal hand to those efforts. We must ensure that the natural resources of this area continue to be treasured so that future generations will be able to see and enjoy this area. Inclusion of the Manumuskin River and the Muskee Creek in the Wild and Scenic Rivers System will help accomplish this goal.

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By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. BUMPERS, Mr. LEAHY, Mr. DASCHLE, Mr. WELLSTONE, Mr. KASTEN, Mr. HARKIN, Mr. PRYOR, Mr. GLENN, Mr. RIEGLE, Mr. BAUCUS, Mr. EXON, Mr. DURENBERGER, Mr. KOHL, and Mr. BURNS):

S. 3310. A bill to amend the Consolidated Farm and Rural Development Act and the Farm Credit Act of 1971 to establish a program to aid beginning farmers and ranchers, to improve the operation of the Farmers Home Administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL CREDIT AMENDMENTS ACT

Mr. CONRAD. Mr. President, I am pleased to introduce the Agricultural Credit Amendments Act of 1992 along with Senators GRASSLEY, BUMPERS, and others. The core of this bill relates to assistance to beginning farmers and ranchers. I want to recognize Senator GRASSLEY and Senator BUMPERS for their early and continued leadership and assistance on this proposal. I also want to commend Congressman ENGLISH and Congressman PENNY for their invaluable work in developing and moving H.R. 4906, the Agricultural Credit Improvement Act of 1992. Many provisions in the bill we are introducing today are similar to the provisions in H.R. 4906.

I also appreciate the views and assistance provided by many organizations and individuals as we have moved this proposal through the legislative process, and their support for the bill we are introducing today. In particular, I want to thank the Center for Rural Affairs for its excellent work to develop the proposal on which this bill is based, and for its tireless efforts to ensure its passage.

Mr. President, there are a number of pressing problems which Congress needs to address relating to farmers and other rural residents. I think passage of this bill is important to address some of those problems. I am also committed to passage of S. 3119, the USDA National Appeals Division Act of 1992 to address very serious problems in USDA's appeals systems.

There are many obstacles to getting started in farming. Farming requires a significant capital investment. It may be difficult to find suitable land at an affordable price. Lenders are wary of taking a risk on a beginning farmer or rancher who does not have a large asset base. The business of farming itself is risky, and profit margins are very slim and often nonexistent.

This bill attempts to address some of these obstacles. First, it establishes a down payment loan program under the Farmers Home Administration [FmHA]. Under this proposal, a beginning farmer or rancher who wishes to purchase land may receive a 10-year, low-interest FmHA loan for 30 percent of the value of that land if the beginning farmer provides a 10 percent down payment, and a commercial, cooperative or other lender makes a loan for the remaining 60 percent. When the beginning farmer or rancher has repaid the FmHA loan at the end of 10 years, he or she will have at least 40 percent equity in the land, which should provide an adequate asset base on which to obtain future private credit and operate a successful farm operation.

Second, this bill establishes a beginning farmer operating loan program which ensures a borrower a reliable source of FmHA-assisted operating credit for up to 10 years if the borrower develops and meets a long-term operating plan.

Both of these programs employ the borrower training and loan assessment provisions that we enacted in the 1990 farm bill to improve FmHA's credit supervision, and assist borrowers to become financially viable, and graduate to private credit. It is my hope that through all of these programs, we will be able to assist new generations of farmers in assuming the vital agricultural production in this country.

Mr. President, I must point out that credit and farm management programs address only some of the problems that hinder beginning farmers. Another, and I believe larger problem, is farm profit. Many commodity prices are simply so low that many farmers cannot make a decent living. Work on a farm is too hard, and the risks too great, to attract a new generation of family-size farmers unless they can see that the business can be profitable. Congress and the administration simply must acknowledge that it has to ensure a decent return on the sale of commodities, or we will lose our stable, cheap supply of food. I strongly urge my colleagues to address this serious problem.

In addition, funding for these programs, particularly the down payment program, is minuscule. The FmHA direct farm ownership loan program is funded at $67 million for the entire country. That means a little over $1 million per State, which funds only a handful of farm ownership loans. There are currently long waiting lists of applicants for these farm ownership loan funds, which are used to assist both beginning farmers and financially troubled borrowers to purchase land and refinance debt. We are now creating a down payment loan program which will also use this same pool of funds. I have regularly pressed for additional farm ownership loan funds, and I urge my colleagues to do the same, so that we can have a meaningful program of assistance to beginning farmers and ranchers.

Mr. President, this bill also includes a number of other FmHA, Farm Credit System, and Farm Credit Administration provisions which I hope will improve the operation of their existing programs.

I ask my colleagues to support passage of this legislation.

Mr. GRASSLEY. Mr. President, I speak today to alert my colleagues to a growing problem not only in Iowa, but in the rest of the Nation, and I urge my colleagues to move quickly to enact legislation that would stem an alarming new threat to the family farm and America's rural communities.

Mr. President, the House of Representatives recently passed the Beginning Farmer and Rancher Credit Act. This bill would assist young people interested in farming by creating a new downpayment loan option for farm ownership loans. This provision is designed to leverage private financing with limited Farmers Home Administration funds. As I will detail in a moment, with the average age of the

farming community continuing to rise at an alarming rate, we desperately need legislation not only to aid the struggling beginning farmer and rancher, but also to encourage our young people to enter the profession. I submit that the transfer of productive agricultural assets with the resulting changing demographics of our rural communities, may be the single most important agriculture issue we will face in the coming years.

I have long been concerned about this trend and have been active in providing incentives that would encourage young people to take up farming. Most notably, I worked hard to get tax-exempt status for State-issued bonds designed to assist beginning farmers to acquire agricultural property.

This has helped thousands, but we need to do more.

And that is why I, in concert with Congressman TIM PENNY, have introduced S. 1835, the Beginning Farmer and Rancher Credit Act. I am pleased that Senator CONRAD has included my bill in a larger agriculture credit package, the Agricultural Credit Amendments Act of 1992. And I sincerely hope that, during these waning days of the 102d Congress, this Chamber supports this measure.

That quick action is needed is demonstrated by 1990 census data and a recent survey conducted by Iowa State University. In Iowa alone, the number of farms dropped by 15,000 between 1980 and 1990, and in fact 32,000 farmers either left the land or found a different primary source of income. During that same time period, the farm population of Iowa declined by 135,000. Many economists believe that steeper declines are expected in the future.

Yet these numbers don't tell the whole story. Census data suggests that the relatively rapid decline in the number of farms during the 1980's was to a large degree due to the dramatic drop in new, beginning farmers. While the numbers of farmers who leave the land have remained relatively stable year in and year out, those who enter farming as a career have dropped off precipitously during the past two decades. The Economic Research Service of the Department of Agriculture confirms this, finding that there has been a 50-percent reduction in the number of farmers under the age of 25, and a 30-percent reduction in the total number of farmers between the ages of 25 and 34. Indeed, the only age group that increased was that of farmers 65 and older. And since most of these farmers are expected to retire in the near future, it is critical to move quickly to encourage young people to get into farming.

To be sure, young people interested in farming face many obstacles: The cost of equipment, seed, livestock, and other inputs means that help with annual operating loans is a necessity. Furthermore, the costs of renting or purchasing farmland has escalated in recent years; and the reduced availability of credit, and cautious lenders, are making it more and more difficult to obtain much-needed credit. Much of the available credit from public and private sources is redirected to existing financially strapped farmers—leaving even less assistance for beginning farmers.

But with the average age of the farmer at 55 years, with many planning to retire in the next 4 years, it is clear that the very foundation of the family farm is being threatened by the barriers to entry that make farming too risky, or too expensive, for young people interested in the profession.

Mr. President, 1 in 4 Iowa farmers will retire in the next 5 years. I have to believe that the numbers for the Nation are comparable. Mr. President, I ask who will take their place? Unless credit is made available for the next generation of farmers, I am afraid that more and more of our agricultural production will be placed in fewer and fewer hands.

A country can ill-afford to ignore its food production, and this Chamber must not miss this opportunity to address the changing face of the American farm. In the past, we have all worked hard to stabilize the farm economy and raise the standard of living of our farmers and ranchers. But to a certain extent our efforts have been primarily reactive. We need the vision to pass this proactive piece of legislation now. We need to ensure that retiring farmers are replaced by aspiring farmers.

Mr. President, I urge my colleagues to put aside any differences that might hinder the enactment of this legislation. Our action during the 102d Congress is crucial not only to the viability of America's family farmers, but also to the future of all of rural America.

Mr. BUMPERS. Mr. President, earlier this year, I introduced legislation that would help provide better direction to USDA's farm credit arm and to make certain that this Nation's beginning farmers will have adqeuate opportunity to meet our food and fiber needs for years to come. Since that time, the House of Representatives has passed legislation, nearly identical to my bill, of which I understand the administration is supportive.

As is appropriate in this body, the Agriculture Committee, the committee of jurisdiction, has reviewed my bill and through a series of discussions within the committee and with representatives of the Department of Agriculture, has approved a package that comes to the floor for introduction today. It is therefore with great pride that I join the distinguished chairman of the Agricultural Credit Subcommittee, Senator CONRAD, and ranking minority member, Senator GRASSLEY, in introducing this important legislation.

When I introduced my Beginning Farmer legislation, I included a statement that outlined the dramatic trend of an aging farm population as well as the increasing costs of farming which have contributed to the barrier which has kept younger generations from entering the farming profession. I will not repeat that accounting of costs or percentages of age groups, but I would like to remind my Senate colleagues of my conclusion: It is little wonder that young men and women are finding it impossible to enter into a life's work in farming even though it is where their hearts or their families' history are strongly attached.

However, I would like to describe a few items that appeared in the September 3, 1992, Wall Street Journal that indicate a few of the reasons why it is difficult for young people to enter farming. Not only is the cost of farming high, credit in rural areas is tight. The ratio of loans to deposits in rural banks is down 20 percent compared to the industry overall, and they are requiring more in terms of downpayments and more in terms of interest rates than might be found in their more urban counterparts.

A certain tenseness about farm credit is understandable. Roughly one-third of the drop in farm debt over the past 7 years—agricultural loans fell by about $55 billion, or 28 percent—can be traced to farm lenders writing off bad debts. The decade of the 1980's witnessed the greatest gut-wrenching in farm country since the Great Depression. During that decade, the tragedy of rural America was portrayed on Hollywood screens and published in weekly farm auction advertisements. In the worst sense of tragedy, the story told of farm suicides, some of which occurred in my home State. As we have grown out of that sad state, the farm lending industry has coated itself with a tough shield of austerity. Given recent history, that is understandable and, to an extent, highly proper. One unfortunate economic outcome, however, is the related hardship on agribusiness. Farmers are now using equipment that should have long been replaced. They can afford little else, but that translates into hard times on Main Street in rural America.

Federal policy must reflect enough caution to avoid a repeat of the 1980's. Federal policy must also contain the will to move into the 1990's and beyond with a dedication to keep farmers on the farm and the farm economy a viable, integral part of our national economy. It always has been so, and to do otherwise today may well result in national economic disaster. We expect farmers to exist and we expect farmers to succeed. I strongly feel the legislation we introduce today will contribute much to both of those expectations.

I would also like to mention an article that appeared in the August 3, 1992, New York Times that described the gradual decline and near extinction of black farmers in this country. According to that article, in 1960, 11 percent of the people operating their own farms were black, which was roughly the same proportion of blacks in the general population. By 1990, that figure had dropped to 1.5 percent or only 69,000 farmers out of a total farm population of 4.5 million. That article quoted Douglas Bachtel, of the University of Georgia's College of Family and Consumer Sciences as stating "black farmers are on their way to extinction."

In my State of Arkansas, this history of a declining black farm population is repeated. Fortunately, there are groups of men and women there who are dedicated to halt this trend through a number of innovative steps to develop alternative crops and other non-traditional methods of rural survival. This year, I am proud to say we were able to finally provide funding for the Socially Disadvantaged Farmer Outreach Program through the agriculture and rural development appropriations bill, some of which I hope will serve those men and women in my State as well as other parts of the country. I believe the legislation we introduce today will highly complement these steps to encourage and enable young farmers, black and white alike, to acquire the tools and resources necessary to farm and to farm successfully.

The legislation we introduce today is not so much a revolution of Federal farm credit policy as it is a long-needed redirection and redefinition of the role Federal farm credit programs should serve to American farmers. The Farmers Home Administration has a long history and has well proven its role in allowing farmers to conduct viable operations by giving them the chance to get on their feet and become productive members of the farming community. It was never designed to be the permanent sole source of credit. The Farmers Home Administration was designed to be the lender of last resort, but not the lender of perpetual resort.

Our legislation is designed to target those beginning farmers who have a true opportunity for success if given that important first chance. Among other things, this bill directs certain portions of funding for Farmers Home lending resources to beginning farmers for operating and eventual farm ownership expenses. The bill also establishes a program in which young farmers can enter into 10-year commitments with Farmers Home so that as long as the farmer meets his or her personal goals, Farmers Home will assist with credit needs. Once a young farmer has proven success, he or she may become eligible for a newly established down payment loan program that goes far in helping purchase a farm that may one day be passed on to their children, young farmers of the next generation.

This legislation not only anticipates farmer success, in a sense it requires it. If farmers are unable to meet their objectives for 2 consecutive years, the Farmers Home commitment may be withdrawn unless the failure is due to circumstances beyond the control of the farmer and will not materially reduce the likelihood of the operation's financial viability. Graduation, the process of moving farmers from federally subsidized credit to commercial credit, has long been the goal of Farmers Home programs and this bill will help make it a reality.

Farmers in my State and elsewhere have experienced difficult times in recent years. Natural disasters, depressed prices, high costs, unfair trade competition, and other factors have all taken their toll. Still, farmers are among the toughest and most dedicated of all our citizens. I am proud to serve them and, through this legislation, to help provide the means for young farmers to succeed. I am equally proud to join with my colleagues in the introduction of this bill as an expression of our thanks to all the generations of farmers who have served this Nation and as a promise of support and expectation for those generations to come.

Mr. LEAHY. Mr. President, I am pleased to cosponsor the Agricultural Credit Amendments Act of 1992. I want to recognize Senator CONRAD, chairman of the Subcommittee on Credit, for his leadership in developing this legislation.

Because of the economics of the past decade, it has become all but impossible for an American farmer to make a decent living, let alone hope that a son or daughter can do the same. We are at risk of losing the family farm—the farm passed down from generation to generation. We must pass this legislation to give young people who want a future in agriculture the opportunity they deserve.

Over the past decade we have witnessed dramatic changes in American agriculture. Nearly one-half of all farmers in 1987 were over the age of 55 and less than 2 percent were under age 25. Farm population is declining at an alarming rate. This year we have only 2.1 million farm families left in the United States. We must act to preserve our rural heritage before it is too late.

The farm recession of the 1980's and policy changes by the Reagan-Bush administrations have restricted the capability of beginning farmers to obtain the credit they need to get started farming.

Given the financial environment today, some restrictions are understandable. This legislation is special because it protects our financial interests—it encourages young people to choose farming as their profession but demands that they make a 10-year commitment and meet their goals. As long as the young farmer keeps his commitment, the Farmers Home Administration will assist with credit.

This program is based on success rather than failure. These young farmers must succeed—if they miss their goals for 2 consecutive years, FmHA can withdraw their commitment. Therefore the program aids in graduating farmers to commercial credit—which has always been an objective of the Farmers Home loan programs. These loan programs were established to provide last resort credit, intended only as a temporary source.

As young farmers face many obstacles, it is appropriate that we have a national policy to assist those young farmers that simply need help getting started.

Enough of the policies of the past decade have hurt rural communities—we have seen much of the progress made combating poverty and unemployment in rural areas reversed. Agriculture plays an essential role in the vitality of rural areas, and losing young farmers will only further add to the struggles of rural America.

We have a proud tradition of agriculture in Vermont and in America. That proud tradition remains on the face of every man and woman, every American farmer that year after year holds on to their farm, is firm in their conviction that U.S. agriculture must remain a world leader, and teaches the value of their land and their farm to their children. This legislation helps ensure that the proud tradition of American agriculture is not lost.

Mr. FOWLER. Mr. President, this legislation is extremely important to the beginning farmers of America and I am pleased to support its passage. However, we have failed to address an important provision expanding the lending authority of the Farm Credit System. I have worked long and hard with the chairman of the Agriculture Committee on this matter and we have come to an agreement which temporarily resolves some of my concerns.

Mr. LEAHY. The Senator from Georgia's interest in this matter is well documented and he should be commended for his commitment to expanding economic development opportunities in rural America.

Mr. FOWLER. I thank my distinguished chairman and want to clarify our agreement. It is my understanding the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on the expansion of the Farm Credit System's lending authority early next year?

Mr. LEAHY. The distinguished Senator from Georgia is correct. The committee will hold a hearing on that matter at the beginning of the 103d Congress early next year.

Mr. FOWLER. It is also my understanding that after the hearing the committee members will examine the testimony to determine if there is interest in moving forward with legislation. If there is significant interest in moving forward with legislation expanding the leading authority of the Farm Credit System, the committee will act accordingly.

Mr. LEAHY. If after the hearing there is a desire by the members of the committee to address the expansion of lending authority, the committee will act accordingly.

Mr. FOWLER. I thank the Senator from Vermont and also want to recognize his continued leadership on the many issues facing rural America.

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By Mr. BREAUX:

S. 3313. A bill to amend the Immigration and Nationality Act to accord nonimmigrant alien status to certain alien crewmen aboard fishing vessels of U.S. registry; to the Committee on the Judiciary.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

• Mr. BREAUX. Mr. President, today I am introducing legislation that will correct an unintended, potentially damaging, consequence of U.S. immigration law, which control the activities of alien tuna fishing vessel crewmen who enter ports in this country. Immigration and naturalization law permit parole privileges, under specified procedures, to crewmembers of foreign-flagged fishing boats that enter U.S. ports.

Alien crewmen on foreign-flagged fishing vessels that dock at our ports are able to secure parole privileges to leave these vessels for onshore medical attention, travel to airports for flights home, attend to the boat's business, and work alongside their vessels to repair nets and perform other work-related functions. Mr. President, alien crews on foreign vessels are allowed reasonable and ample parole privileges.

But if these same crewmen sail into American ports 1 month later as members of crews of American-flagged fishing vessels, Mr. President, they are denied parole privileges absolutely. They cannot visit a doctor if they are sick or injured. They cannot repair nets. They are limited in their ability to participate in unloading the catch. And, they certainly cannot travel to airports: they are not allowed to leave the boat, Mr. President.

Mr. President, according to the Justice Department:

> This inequity arises because section 101(a)(15)(D) of the Immigration and Nationality Act forbids classifying nonimmigrants who work on fishing vessels based in the United States as "D" crewmen. This group of nonimmigrants does not fall under any other category specified in the act * * * according to statute and the policy of the Immigration and Naturalization Service, these crewmen are detained on board their vessels.

Please note, Mr. President, that under our law if you are an undocumented alien docked in an American port as a crewmember of a foreign-flagged fishing vessel, you are treated substantially different, than if you are an undocumented alien under the same circumstances except that you are a crewman of an American-flagged fishing vessel.

Such law and policy, Mr. President, can have serious economic consequences. If foreign crews on American vessels cannot leave their vessels, an American fishing vessel is, and has been, hampered in its ability to unload its catch.

A California cannery has felt the impact of this discrimination. As noted by the Fishermen's Union of America, an affiliate of the Seafarers International Union of North America, AFL–CIO, the tuna cannery in the continental United States at Terminal Island, CA, is threatened with closure if U.S. fishing vessels must unload their catches in ports outside of the United States. It is my understanding that this community's economic base is centered on the commercial fishing industry.

My bill would correct this unreasonable discrimination. My bill would amend the statute to give to foreign crews working on American fishing vessels the same parole rights and privileges, no more or no less, Mr. President, as their counterparts who work on foreign-flagged fishing vessels.

I again note, Mr. President, that the off-vessel activities of foreign crews of American fishing vessels that would be sanctioned by my bill are already being practiced by foreign crews of foreign-flagged fishing vessels. Longshore activities of foreign crews of American vessels would be strictly limited to those allowed under Immigrant Act regulations that enforce section 101(a)(15)(D)(i). American-vessel foreign crews would also have to meet the same documentation requirements, and the requirements of all regulations otherwise prescribed by the Immigration and Naturalization Service for the control of undocumented aliens.

This bill will, however, remove the unintended consequence of U.S. law discriminating against American fishing vessels and creating a disadvantage for an American tuna cannery.

Mr. President, I urge my colleagues to join me in supporting and passing this immigrant legislation.•

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By Mr. DANFORTH (for himself, Mr. BOND, Mr. COCHRAN, Mr. SMITH, Mr. SYMMS, Mr. STEVENS, Mr. HATCH, Mr. GARN, Mr. BURNS, Mr. D'AMATO, Mr. EXON, Mr. PRESSLER, Mr. MURKOWSKI, and Mr. JOHNSTON):

S.J. Res. 345. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT PROHIBITING THE LAYING OR INCREASING OF TAXES BY THE SUPREME COURT OR ANY INFERIOR COURT OF THE UNITED STATES

• Mr. DANFORTH. Mr. President, I rise to introduce a constitutional amendment confirming the principle that unelected officials cannot raise taxes on the American people. I ask unanimous consent that the text of the amendment follow my remarks. I am surprised that there is a need for this amendment. Yet, in a 5-to-4 decision on April 18, 1990, the Supreme Court upheld a lower court's decision, which increased taxes on the people in my State. The increase in taxes was indirect, but in a sense so narrow as to be meaningless. Although the Court properly held that a court does not have the power to simply levy a tax increase, in the same opinion the Court held that a judge may eliminate State law impediments to higher taxes and then order that the relevant taxes be increased. I agree with the dissent, that "any purported distinction between direct imposition of a tax by the Federal court and an order commanding the school district to impose the tax is but a convenient formalism."

In 1977, a group of Kansas City students filed a complaint against the State of Missouri for operating a segregated school system. The district court found that the school district and the State had violated the Constitution and ordered a magnet school system to remedy the violation. Unlike most orders in which a court requires that a certain remedy be implemented, this court decided to immerse itself in the details of the new magnet school plan. The judge has ordered $1.2 billion spent on building improvements and development of new programs. That cost could reach $2 billion by the year 2000. The liability for this astronomical amount is split 75 percent to the State and 25 percent to the Kansas City School District. Yet, because of joint and several liability, the State ultimately picks up the tab for amounts that cannot be raised by the local government.

This order has placed an incredible burden on Missouri's budget. Last year, the State had to come up with an unexpected $71 million for desegregation costs. The State has already paid out $570.7 million for the Kansas City desegregation program. The court-ordered monitoring committee found the following:

> The attitude has been prevalent throughout the * * * program that money is no object, and the court will provide all that is necessary and no one will take any punitive actions if we are sloppy in our work habits. * * *

Why extravagance with the public's money? I would argue it is because an

unelected individual has ordered higher taxes to fund the plan. The reason our Constitution did not accord the taxing power to unelected officials is because our government must be accountable to the people, and no power is more basic than the power to tax. The public's money must not be spent unless there is some method for turning off the faucet, or passing judgment on the official who is spending the money.

In Missouri versus Jenkins, the Court was wrong. The Constitution never granted courts the power to levy a direct or indirect tax. Article I, section 8 of the Constitution gives Congress the "power to lay and collect taxes, duties, imposts and excises." Article III enumerates the powers of the judicial branch, and nowhere in the text of article III does the word "tax" appear.

Article I, section 7 states that "all bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills." Why do tax bills have to originate in the House? The reason is that the House of Representatives was the part of Congress closest to the people when the Constitution was written. Until 1913, Senators were elected by State legislators, and therefore were considered more removed from the people.

If the language of the Constitution is not clear enough, let's follow the ordinary canons of constitutional interpretation and look at the history of the founding of this country and the drafting of the Constitution. The Revolutionary War was fought over the right of the people to avoid taxation without representation. The Stamp Act Congress in 1765 reflected the views of all the States in stating the following:

*Resolved:* That it is inseparably essential to the freedom of a people, and the undoubted right of Englishmen, that no taxes be imposed on them but with their own consent, given personally or by their representatives * * * that the only representatives of the people of these colonies are persons chosen therein by themselves, and that no taxes ever have been, or can be constitutionally imposed on them, but by their respective legislatures.

In the Federalist Papers, Alexander Hamilton and James Madison gave us our best insight into the intent of the drafters regarding taxation. In Federalist 48, James Madison said the following: "* * * the legislative department alone has access to the pockets of the people." In Federalist 78, Hamilton argued that the judicial branch would be the least dangerous branch saying in the process that judges would have "no influence over either the sword or the purse."

In my view, the dissenters in Missouri versus Jenkins were correct: the Constitution did not give judges the power of taxation. Because the government cannot exercise powers it doesn't possess, it follows as a matter of obvious necessity that judges cannot tax. If judges can tax, then the government can give itself powers not granted by the people—an idea that is ridiculous on its face.

My amendment is simple. It would restore the understanding which I have always had of the Constitution. It will not hamstring the courts nor prevent its remedies from being enforced. Courts have always had the civil contempt power which, as is evidenced by the housing desegregation order in Yonkers, NY, is no trifling weapon. Courts have always been able to enforce their orders without the need for the taxing power, and this amendment will not alter this balance of power.

This amendment restates our belief that Americans should not and will not be taxed without representation. It is shocking that the law, as it stands, says the opposite: that an unelected official, appointed for life, can raise taxes. There is no more basic principle in America than popular consent to being taxed. When the courts hold otherwise, the courts are wrong, and should be corrected.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 345

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein),* That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a State or political subdivision thereof, or an official of such State or political subdivision, to lay or increase taxes."●

## SENATE CONCURRENT RESOLUTION 140—RELATING TO HUMANITARIAN RELIEF AND HUMAN RIGHTS IN THE SUDAN

Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. PELL, Mr. HELMS, Mr. LEVIN, and Mr. BRADLEY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 140

Whereas the Government of Sudan engages in a consistent pattern of gross violations of internationally recognized human rights;

Whereas Sudanese military forces and the resistance movement, the Sudan Peoples' Liberation Army, are currently engaged in a battle for the southern capital of Juba without regard for the welfare of its civilian population, some 300,000 of whom are existing only on the intermittent provision of relief supplies;

Whereas the Government of Sudan is engaging in gross abuses of human rights elsewhere in the country, including a campaign of forced displacement of tens of thousands of Nuba from their ancestral homes in southern Kordofan Province, the destruction of Nuba villages, and the killing of hundreds of civilians;

Whereas the Government of Sudan has undertaken a cruel campaign to relocate some 500,000 internally displaced southerners and westerners from the outskirts of Khartoum to inhospitable camps far from the city, has announced plans to relocate an additional 250,000 in the coming months, and inhibited many international relief agencies from aiding the displaced;

Whereas the Government of Sudan has systematically harassed international relief agencies and workers whose only objective is to reduce suffering among Sudanese citizens in need;

Whereas the Government of Sudan is engaging in the imprisonment, torture, and execution of suspected dissidents across the country; and

Whereas, in September 1992, the Government of Sudan executed in Juba one and possibly two employees of the United States Agency for International Development after trials in which the victims had no possibility of appropriate counsel or appeal: Now, therefore, be it

*Resolved,* That the Senate (The House of Representatives Concurring)

(1) condemns the egregious human rights abuses by the Government of Sudan and calls upon the Government of Sudan to cease its abuses of internationally recognized human rights and specifically—

(A) to allow free movement for all civilians who wish to leave the southern city of Juba and to cease the human rights abuses, including summary executions, of those civilians held against their will in Juba;

(B) to allow unrestricted and unconditional access for the International Committee of the Red Cross, United States officials, and other relief organizations to all parts of the country, including Juba;

(C) to guarantee the personal safety and security of all relief workers, including Sudanese employees of relief agencies working in Sudan;

(D) to provide a full accounting of the recent deaths of employees of the United States Agency for International Development in Juba;

(E) to cease its violent campaign of forced displacement of the Nuba people of Kordofan Province and the displaced people from Khartoum, to permit a greater number of international relief organizations to attend to their needs, and to initiate a process for just settlement of claims of those who have been relocated and whose homes and belongings have been destroyed;

(F) to permit international human rights groups to visit all areas of Sudan, including places of detention and displaced persons camps; and

(G) to lift the ban on the institutions of independent civil society such as the press and labor unions, and to restore freedom of speech and expression;

(2) calls upon the Sudan Peoples' Liberation Army to end its human rights abuses and interference with relief efforts; and

(3) calls upon the President to work with United Nations Secretary General Boutros Boutros-Ghali to convene a Security Council meeting to discuss the human rights situation in Sudan and to consider further international means, including within the United Nations system to ameliorate the humanitarian situation in Sudan.

## AMENDMENTS SUBMITTED

### PUBLIC HEALTH SERVICE ACT AMENDMENTS OF 1992

### SMITH AMENDMENT NO. 3373

(Ordered to lie on the table.)

Mr. SMITH submitted an amendment intended to be proposed by him to the bill (S. 2899) to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes, as follows:

At the appropriate place, add the following:

TITLE . CRIME CONTROL

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Crime Control Act of 1992".

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


Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short title.
Sec. 102. Death penalty procedures.
Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft facilities.
Sec. 104. Conforming amendment relating to espionage.
Sec. 105. Conforming amendment relating to transporting explosives.
Sec. 106. Conforming amendment relating to malicious destruction of Federal property by explosives.
Sec. 107. Conforming amendment relating to malicious destruction of interstate property by explosives.
Sec. 108. Conforming amendment relating to murder.
Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons.
Sec. 110. Murder by Federal prisoner.
Sec. 111. Conforming amendment relating to kidnapping.
Sec. 112. Conforming amendment relating to hostage taking.
Sec. 113. Conforming amendment relating to mailability of injurious articles.
Sec. 114. Conforming amendment relating to presidential assassination.
Sec. 115. Conforming amendment relating to murder for hire.
Sec. 116. Conforming amendment relating to violent crimes in aid of racketeering activity.
Sec. 117. Conforming amendment relating to wrecking trains.
Sec. 118. Conforming amendment relating to bank robbery.
Sec. 119. Conforming amendment relating to terrorist acts.
Sec. 120. Conforming amendment relating to aircraft hijacking.
Sec. 121. Conforming amendment to Controlled Substances Act.
Sec. 122. Conforming amendment relating to genocide.
Sec. 123. Protection of court officers and jurors.
Sec. 124. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 125. Death penalty for murder of Federal law enforcement officers.
Sec. 126. Death penalty for murder of State or local law enforcement officers assisting Federal law enforcement officers.
Sec. 127. Implementation of the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.
Sec. 128. Amendment to Federal Aviation Act.
Sec. 129. Offenses of violence against maritime navigation or fixed platforms.
Sec. 130. Torture.
Sec. 131. Weapons of mass destruction.
Sec. 132. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 133. Death penalty for civil rights murders.
Sec. 134. Death penalty for murder of Federal witnesses.
Sec. 135. Drive-by shootings.
Sec. 136. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 137. Death penalty for rape and child molestation murders.
Sec. 138. Protection of jurors and witnesses in capital cases.
Sec. 139. Inapplicability to Uniform Code of Military Justice.
Sec. 140. Death penalty for causing death in the sexual exploitation of children.
Sec. 141. Murder by escaped prisoners.
Sec. 142. Death penalty for murders in the District of Columbia.

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

Sec. 201. Short title.
Sec. 202. Period of limitation.
Sec. 203. Appeal.
Sec. 204. Amendment of Federal Rules of Appellate Procedure.
Sec. 205. Section 2254 amendments.
Sec. 206. Section 2255 amendments.

Subtitle B—Death Penalty Litigation Procedures

Sec. 211. Short title for subtitle B.
Sec. 212. Death penalty litigation procedures.

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

Sec. 221. Funding for death penalty prosecutions.

TITLE III—EXCLUSIONARY RULE

Sec. 301. Admissibility of certain evidence.

TITLE IV—FIREARMS AND RELATED AMENDMENTS

Sec. 401. Increased mandatory minimum sentences for criminals using firearms.
Sec. 402. Increased penalty for second offense of using an explosive to commit a felony.
Sec. 403. Smuggling firearms in aid of drug trafficking.
Sec. 404. Prohibition against theft of firearms or explosives.
Sec. 405. Increased penalty for knowingly false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 406. Summary destruction of explosives subject to forfeiture.
Sec. 407. Elimination of outmoded language relating to parole.
Sec. 408. Enhanced penalties for use of a firearm in the commission of counterfeiting or forgery.
Sec. 409. Mandatory penalties for firearms possession by violent felons and serious drug offenders.
Sec. 410. Receipt of firearms by nonresident.
Sec. 411. Prohibition against conspiracy to violate Federal firearms or explosives laws.
Sec. 412. Prohibition against theft of firearms or explosives from licensee.
Sec. 413. Prohibition against disposing of explosives to prohibited persons.
Sec. 414. Increased penalty for interstate gun trafficking.
Sec. 415. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
Sec. 416. Possession of explosives by felons and others.
Sec. 417. Possession of an explosive during the commission of a felony.
Sec. 418. Disposition of forfeited firearms.
Sec. 419. Definition of serious drug offense.
Sec. 420. Definition of burglary under the armed career criminal statute.

TITLE V—JUVENILES AND GANGS

Subtitle A—Increased Penalties for Employing Children To Distribute Drugs Near Schools and Playgrounds

Sec. 501. Strengthened Federal penalties.

Subtitle B—Antigang Provisions

Sec. 511. Grant program.
Sec. 512. Conforming repealer and amendments.
Sec. 513. Criminal street gangs.

Subtitle C—Juvenile Penalties

Sec. 521. Treatment of violent juveniles as adults.
Sec. 522. Serious drug offenses by juveniles as armed career criminal act predicates.
Sec. 523. Certainty of punishment for young offenders.

Subtitle D—Other Provisions

Sec. 531. Bindover system for certain violent juveniles.
Sec. 532. Gang investigation coordination and information collection.
Sec. 533. Clarification of requirement that any prior record of a juvenile be produced before the commencement of juvenile proceedings.

TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

Sec. 601. Terrorism civil remedy.
Sec. 602. Providing material support to terrorists.
Sec. 603. Forfeiture of assets used to support terrorists.
Sec. 604. Alien witness cooperation.
Sec. 605. Territorial sea extending to 12 miles included in special maritime and territorial jurisdiction.
Sec 606. Assimilated crimes in extended territorial sea.
Sec. 607. Jurisdiction over crimes against United States nationals on certain foreign ships.
Sec. 608. Penalties for international terrorist acts.
Sec. 609. Authorization of appropriations.
Sec. 610. Enhanced penalties for certain offenses.
Sec. 611. Sentencing guidelines increase for terrorist crimes.
Sec. 612. Extension of the statute of limitations for certain terrorism offenses.
Sec. 613. International parental kidnapping.
Sec. 614. State court programs regarding interstate and international parental child abduction.
Sec. 615. Foreign murder of United States nationals.

Sec. 616. Extradition.
Sec. 617. Gambling devices on United States ships.
Sec. 618. FBI access to telephone subscriber information.

TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

Sec. 701. Definition of sexual act for victims below 16 years of age.
Sec. 702. Increased penalties for recidivist sex offenders.
Sec. 703. Restitution for victims of sex offenses.
Sec. 704. HIV testing and penalty enhancement in sexual abuse cases.
Sec. 705. Payment of cost of HIV testing for victim.

Subtitle B—Victims' Rights

Sec. 711. Restitution amendments.
Sec. 712. Victim's right of allocution in sentencing.
Sec. 713. Right of the victim to an impartial jury.
Sec. 714. Mandatory restitution and other provisions.

Subtitle C—Crime Victims Fund

Sec. 721. Crime victims fund.
Sec. 722. Percentage change in crime victim compensation formula.
Sec. 723. Administrative costs for crime victim compensation.
Sec. 724. Relationship of crime victim compensation to certain Federal programs.
Sec. 725. Use of unspent section 1403 money.
Sec. 726. Underserved victims.
Sec. 727. Grants for demonstration projects.
Sec. 728. Administrative costs for crime victim assistance.
Sec. 729. Change of due date for required report.
Sec. 730. Maintenance of effort.
Sec. 731. Delayed effective date for certain provisions.

Subtitle D—National Child Protection Act

Sec. 741. Short title.
Sec. 742. Findings and purposes.
Sec. 743. Definitions.
Sec. 744. Reporting by the States.
Sec. 745. Background checks.
Sec. 746. Funding for improvement of child abuse crime information.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

Sec. 751. Short title.
Sec. 752. Establishment of program.
Sec. 753. State compliance.

Subtitle F—Domestic Violence

Sec. 761. Domestic violence grants.
Sec. 762. Report on battered women's syndrome.

Subtitle G—Other Provisions

Sec. 771. Inducement of minor to commit an offense.
Sec. 772. Disclosure of records of arrests by campus police.
Sec. 773. National baseline study on campus sexual assault.
Sec. 774. Sense of Congress concerning child custody and visitation rights.

TITLE VIII—EQUAL JUSTICE ACT

Sec. 801. Short title.
Sec. 802. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
Sec. 803. General safeguards against racial prejudice or bias in the tribunal.
Sec. 804. Federal capital cases.
Sec. 805. Extension of protection of civil rights statutes.

TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

Sec. 901. Short title.
Sec. 902. Grants to State and local agencies.
Sec. 903. Continuation of Federal-State funding formula.
Sec. 904. Grants for multi-jurisdictional drug task forces.

Subtitle B—Retired Public Safety Officer Death Benefit

Sec. 911. Retired public safety officer death benefit.

Subtitle C—Study on Police Officers' Rights

Sec. 921. Study on police officers' rights.

Subtitle D—Community Policing

CHAPTER 1—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

Sec. 931. Short title.
Sec. 932. Purposes.
Sec. 933. Establishment of Office of the Police Corps and Law Enforcement Education.
Sec. 934. Designation of lead agency and submission of State plan.

Subchapter A—Police Corps Program

Sec. 935. Definitions.
Sec. 936. Scholarship assistance.
Sec. 937. Selection of participants.
Sec. 938. Police corps training.
Sec. 939. Service obligation.
Sec. 940. State plan requirements.
Sec. 941. Authorization of appropriations.

Subchapter B—Law Enforcement Scholarship Program

Sec. 942. Short title.
Sec. 943. Definitions.
Sec. 944. Allotment.
Sec. 945. Program established.
Sec. 946. Scholarships.
Sec. 947. Eligibility.
Sec. 948. State application.
Sec. 949. Local application.
Sec. 950. Scholarship agreement.
Sec. 951. Authorization of appropriations.

Subchapter C—Reports

Sec. 952. Reports to Congress.

CHAPTER 2—COP-ON-THE-BEAT GRANTS

Sec. 961. Short title.
Sec. 962. Cop-on-the-beat grants.

Subtitle E—Rural Crime Prevention Strategy

Sec. 971. Findings.
Sec. 972. Strategy to address rural crime.
Sec. 973. National Institute of Justice national assessment.
Sec. 974. Pilot programs.
Sec. 975. Funding.

Subtitle F—National Commission to Support Law Enforcement

Sec. 981. Short title.
Sec. 982. Findings.
Sec. 983. Establishment of commission.
Sec. 984. Duties.
Sec. 985. Membership.
Sec. 986. Experts and consultants.
Sec. 987. Powers of commission.
Sec. 988. Report.
Sec. 989. Termination.
Sec. 989A. Repeals.

Subtitle G—Other Provisions

Sec. 991. Missing Alzheimer's disease patient alert program.
Sec. 992. Authorization of appropriations for Bureau of Justice Assistance discretionary grants.
Sec. 993. Law enforcement family support.
Sec. 994. Mandatory literacy program.
Sec. 995. Trauma centers and crime-related violence.
Sec. 996. Study and assessment of alcohol use and treatment.
Sec. 997. Notice of release of prisoners.

TITLE X—ILLEGAL DRUGS

Subtitle A—Drug Testing

Sec. 1001. Drug testing of Federal offenders on post-conviction release.
Sec. 1002. Drug testing in State criminal justice systems.

Subtitle B—Precursor Chemicals

Sec. 1011. Short title.
Sec. 1012. Definition amendments.
Sec. 1013. Registration requirement.
Sec. 1014. Reporting of listed chemical manufacturing.
Sec. 1015. Reports by brokers and traders; criminal penalties.
Sec. 1016. Exemption authority; additional penalties.
Sec. 1017. Amendments to list I.
Sec. 1018. Elimination of regular supplier status and creation of regular importer status.
Sec. 1019. Administrative inspections and authority.
Sec. 1020. Threshold amounts.
Sec. 1021. Management of listed chemicals.
Sec. 1022. Attorney General access to the National Practitioner Data Bank.
Sec. 1023. Regulations and effective date.

Subtitle C—Interdiction

Sec. 1031. Sanctions for failure to land or to bring to.
Sec. 1032. FAA revocation authority.
Sec. 1033. Coast Guard air interdiction authority.
Sec. 1034. Coast Guard civil penalty provisions.
Sec. 1035. Customs orders.
Sec. 1036. Customs civil penalty provisions.
Sec. 1037. Information exchange and assistance.
Sec. 1038. Assistance to foreign governments and international organizations.
Sec. 1039. Amendment to the Mansfield amendment to permit maritime law enforcement operations in archipelagic waters.

Subtitle D—Rural Drug Crime

Sec. 1051. Rural drug enforcement task forces.
Sec. 1052. Cross-designation of Federal officers.
Sec. 1053. Rural drug enforcement training.
Sec. 1054. Authorization of appropriations for rural law enforcement agencies.
Sec. 1055. Rural substance abuse treatment and education grants.
Sec. 1056. Clearinghouse program.

Subtitle E—Grant Programs

Sec. 1061. Drug emergency areas.
Sec. 1062. Department of Justice community substance abuse prevention.
Sec. 1063. Grants for substance abuse treatment.
Sec. 1064. Drug testing upon arrest.

Subtitle F—Other Provisions

Sec. 1071. Strengthened Federal penalties relating to crystalline methamphetamine.
Sec. 1072. Advertisements of controlled substances.
Sec. 1073. Increased penalties for distribution of controlled substances at truck stops and rest areas.

Sec. 1074. Enhancement of penalties for drug trafficking in prisons.
Sec. 1075. Seizure of vehicles with concealed compartments.
Sec. 1076. Closing of loophole for illegal importation of small drug quantities.
Sec. 1077. Undercover operations—churning.
Sec. 1078. Drug paraphernalia amendment.
Sec. 1079. Conforming amendments concerning marijuana.
Sec. 1080. Conforming amendment adding certain drug offenses as requiring fingerprinting and records for recidivist juveniles.
Sec. 1081. Clarification of narcotic or other dangerous drugs under RICO.
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Sec. 1501. Authorization of appropriations for new prison construction.

## TITLE I—DEATH PENALTY

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Federal Death Penalty Act of 1992".

**SEC. 102. DEATH PENALTY PROCEDURES.**

(a) ADDITION OF CHAPTER TO TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

**"CHAPTER 228—DEATH PENALTY PROCEDURES**

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.

"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.
"3600. Application in Indian country.

**"§ 3591. Sentence of death**

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c) if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

"(6) any other offense for which a sentence of death is provided if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense or who is mentally retarded.

**"§ 3592. Factors to be considered in determining whether a sentence of death is justified**

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant's participation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) NO SIGNIFICANT CRIMINAL HISTORY.—The defendant did not have a significant history of other criminal conduct.

"(5) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(6) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) CONDUCT OCCURRED DURING COMMISSION OF SPECIFIED CRIMES.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339A (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use of attempted or threatened use of a firearm (as defined in section 921), against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the

office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with sections 1 and 2 of title 3; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591 (3), (4), or (5), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm (as defined in section 921) to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

**"§ 3593. Special hearing to determine whether a sentence of death is justified**

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant. The information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member

of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591 (2) or (6), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591 (3), (4), or (5), an aggravating factor required to be considered under section 3592(d) is found to exist,

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

**"§ 3594. Imposition of a sentence of death**

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

**"§ 3595. Review of a sentence of death**

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) AFFIRMANCE.—If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal,

it shall affirm the sentence.

"(2) REMAND.—In a case in which the sentence is not affirmed under paragraph (1), the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor required to be considered under section 3592 remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors.

"(3) STATEMENT OF REASONS.—The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

**"§ 3596. Implementation of a sentence of death**

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) SPECIAL BARS TO EXECUTION.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

**"§ 3597. Use of State facilities**

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

**"§ 3598. Appointment of counsel**

"(a) REPRESENTATION OF INDIGENT DEFENDANTS.—This section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) has occurred. This section shall not affect the appointment of counsel and the provision of ancillary legal services under section 408(q) (4), (5), (6), (7), (8), (9), and (10) of the Controlled Substances Act (21 U.S.C. 848 (q) (4), (5), (6), (7), (8), (9), and (10)).

"(b) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005. At least 1 counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within 10 days after receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order—

"(1) appointing 1 or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel;

"(2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation.

Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this section, at least 1 counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least 1 counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet the standards prescribed in the 2 preceding sentences, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

**"§ 3599. Collateral attack on judgment imposing sentence of death**

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in section 3598(c), a motion in the case under section 2255 of title 28 shall be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(c). The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the motion under that section is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of the decision to do so, the defendant waives the right to file a motion under section 2255 of title 28.

"(c) FINALITY OF DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was—

"(A) the result of governmental action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

**"§ 3600. Application in Indian country**

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by adding after the item relating to chapter 227 the following new item:

**"228. Death penalty procedures ..... 3591.".**

**SEC. 103. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.**

Section 34 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

**SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIONAGE.**

Section 794(a) of title 18, United States Code, is amended by striking the period at the end and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 that the offense directly concerned—

"(1) nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack;

"(2) war plans;

"(3) communications intelligence or cryptographic information;

"(4) sources or methods of intelligence or counterintelligence operations; or

"(5) any other major weapons system or major element of defense strategy.".

**SEC. 105. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.**

Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

**SEC. 106. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.**

Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

**SEC. 107. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.**

Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

**SEC. 108. CONFORMING AMENDMENT RELATING TO MURDER.**

Section 1111(b) of title 18, United States Code, is amended to read as follows:

"(b) Within the special maritime and territorial jurisdiction of the United States—

"(1) whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life; and

"(2) whoever is guilty of murder in the second degree shall be imprisoned for any term of years or for life".

**SEC. 109. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.**

Section 1116(a) of title 18, United States Code, is amended by striking the comma after "title" and all that follows through "years".

**SEC. 110. MURDER BY FEDERAL PRISONER.**

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 1118. Murder by a Federal prisoner**

"(a) OFFENSE.—Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) DEFINITIONS.—For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

**SEC. 111. CONFORMING AMENDMENT RELATING TO KIDNAPPING.**

Section 1201(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

**SEC. 112. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.**

Section 1203(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

**SEC. 113. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.**

The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

**SEC. 114. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.**

Section 1751(c) of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, by death or imprisonment for any term of years or for life.".

**SEC. 115. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.**

Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

**SEC. 116. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.**

Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both, and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

**SEC. 117. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.**

The penultimate paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

**SEC. 118. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.**

Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

**SEC. 119. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.**

Section 2332(a)(1) of title 18, United States Code, as redesignated by section 601(b)(2), is amended to read as follows:

"(1) if the killing is murder as defined in section 1111(a), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

**SEC. 120. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.**

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473) is amended by striking subsection (c).

**SEC. 121. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.**

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q) (1), (2), and (3), and (r).

**SEC. 122. CONFORMING AMENDMENT RELATING TO GENOCIDE.**

Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 and imprisonment for life" and inserting "death or imprisonment for life and a fine of not more than $1,000,000".

**SEC. 123. PROTECTION OF COURT OFFICERS AND JURORS.**

Section 1503 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) in subsection (a), as designated by paragraph (1)—

(A) by striking "commissioner" each place it appears and inserting "magistrate judge"; and

(B) by striking "fined not more than $5,000 or imprisoned not more than five years, or both" and inserting "punished as provided in subsection (b)"; and

(3) by adding at the end the following new subsection:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years; and

"(3) in any other case, imprisonment for not more than 10 years.".

**SEC. 124. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.**

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b), as redesignated by paragraph (1), the following new subsection:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

**SEC. 125. DEATH PENALTY FOR MURDER OF FEDERAL LAW ENFORCEMENT OFFICERS.**

Section 1114 of title 18, United States Code, is amended by striking "be punished as provided under sections 1111 and 1112 of this title, except that" and inserting ", in the case of murder (as defined in section 1111), be punished by death or imprisonment for life, and, in the case of manslaughter (as defined in section 1112), be punished as provided in section 1112, and".

**SEC. 126. DEATH PENALTY FOR MURDER OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS ASSISTING FEDERAL LAW ENFORCEMENT OFFICERS.**

Section 1114 of title 18, United States Code, is amended by inserting ", or any State or local law enforcement officer while assisting, or on account of his or her assistance of, any Federal officer or employee covered by this section in the performance of duties," after "other statutory authority".

**SEC. 127. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.**

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 36. Violence at international airports**

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at the airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

**SEC. 128. AMENDMENT TO FEDERAL AVIATION ACT.**

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

**SEC. 129. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.**

(a) OFFENSE.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

**"§ 2280. Violence against maritime navigation**

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under cir-

cumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of an offense described in paragraph (1), (2), (3), (4), (5), or (6); or

"(8) attempts to commit any act prohibited under paragraph (1), (2), (3), (4), (5), (6), or (7),

shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to commit any act prohibited under subsection (a) (2), (3), or (5), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured, or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) DELIVERY OF PROBABLE OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he or she has on board the ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action the master should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his or her intention to deliver such person and the reason therefor. If the master delivers such person, the master shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) DEFINITIONS.—As used in this section—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship that has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.

**"§ 2281. Violence against maritime fixed platforms**

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance that is likely to destroy the fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or attempted commission of an offense described in paragraph (1), (2), (3), or (4); or

"(6) attempts to do anything prohibited under paragraphs (1), (2), (3), (4), or (5);

shall be fined under this title, imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to do anything prohibited under subsection (a) (2) or (3), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) DEFINITIONS.—As used in this section—

"(1) 'continental shelf' means the seabed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date on which the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date on which the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

**SEC. 130. TORTURE.**

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

**"CHAPTER 113B—TORTURE**

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

**"§ 2340. Definitions**

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

**"§ 2340A. Torture**

"(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

**"§ 2340B. Exclusive remedies**

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

**"113B. Torture ..... 2340.".**

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

**SEC. 131. WEAPONS OF MASS DESTRUCTION.**

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction (as defined in the amendment made by subsection (b)) gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, as amended by section 601(b), is amended by adding at the end the following new section:

**"§ 2339A. Use of weapons of mass destruction**

"(a) OFFENSE.—Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—As used in this section—

"(1) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(A) a destructive device (as defined in section 921);

"(B) poison gas;

"(C) a weapon involving a disease organism; and

"(D) a weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(c), is amended by adding at the end the following new item:

"2339A. Use of weapons of mass destruction.".

**SEC. 132. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.**

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (a), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (b) the following new subsection:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder (as defined in section 1111(a)), be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113.".

**SEC. 133. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.**

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting "the death penalty or" before "imprisonment".

**SEC. 134. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.**

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;".

**SEC. 135. DRIVE-BY SHOOTINGS.**

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 931. Drive-by shootings**

"(a) OFFENSE.—Whoever knowingly discharges a firearm at a person—

"(1) in the course of or in furtherance of drug trafficking activity; or

"(2) from a motor vehicle,

shall be punished by imprisonment for not more than 25 years, and if death results shall be punished by death or by imprisonment for any term of years or for life.

"(b) DEFINITION.—As used in this section, the term 'drug trafficking activity' means a drug trafficking crime (as defined in section 929(a)(2)), or a pattern or series of acts involving one or more drug trafficking crimes.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following new item:

"931. Drive-by shootings.".

**SEC. 136. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.**

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) Whoever, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

**SEC. 137. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.**

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

**"§ 2245. Sexual abuse resulting in death**

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item relating to section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.

"2246. Definitions for chapter.".

**SEC. 138. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.**

Section 3432 of title 18, United States Code, is amended by striking the period and inserting: ", except that the list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person.".

**SEC. 139. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.**

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

**SEC. 140. DEATH PENALTY FOR CAUSING DEATH IN THE SEXUAL EXPLOITATION OF CHILDREN.**

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following new sentence: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

**SEC. 141. MURDER BY ESCAPED PRISONERS.**

(a) OFFENSE.—Chapter 51 of title 18, United States Code, as amended by section 110, is amended by adding at the end the following new section:

**"§ 1119. Murder by escaped prisoners**

"(a) OFFENSE.—A person who, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another person, shall be punished as provided in sections 1111 and 1112.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1119. Murder by escaped prisoners.".

**SEC. 142. DEATH PENALTY FOR MURDERS IN THE DISTRICT OF COLUMBIA.**

Title 18 of the United States Code is amended—

(a) by adding the following new section at the end of chapter 51:

**"§ 1118. Capital punishment for murders in the District of Columbia**

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is a federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in subsections (d)-(1).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm as defined in section 921 of this title.

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than one year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(i) while such public servant was engaged in the performance of his or her official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggra-

vating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsections (q)-(r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least three years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in

subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning given in section 513 of this title, including the District of Columbia;

"(2) 'Offense', as used in paragraphs (2), (5), and (13) of subsection (e), and in paragraph (5) of this subsection, means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'Drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2) of this title, or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'Robbery' means obtaining the property of another by force or threat of force;

"(5) 'Burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'Sexual abuse' means any conduct proscribed by chapter 109A of this title, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'Arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'Kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'Pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'Public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116 of this title.

"(y) When an offense is charged under this section, the government may join any charge under the District of Columbia Code that arises from the same incident."; and

"(b) by adding the following at the end of the table of sections for chapter 51:

"1118. Capital punishment for murders in the District of Columbia.".

## TITLE II—HABEAS CORPUS REFORM

### Subtitle A—General Habeas Corpus Reform

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Habeas Corpus Reform Act of 1992".

**SEC. 202. PERIOD OF LIMITATION.**

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

**SEC. 203. APPEAL.**

Section 2253 of title 28, United States Code, is amended to read as follows:

**"§ 2253. Appeal**

"In a habeas corpus proceeding or a proceeding under section 2255 before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255, unless a circuit justice or judge issues a certificate of probable cause.".

**SEC. 204. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.**

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

*"Rule 22. Habeas corpus and section 2255 proceedings*

"(a) *Application for an Original Writ of Habeas Corpus.*—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) *Necessity of Certificate of Probable Cause for Appeal.*—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

**SEC. 205. SECTION 2254 AMENDMENTS.**

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence."; and

(5) by adding at the end the following new subsection:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

**SEC. 206. SECTION 2255 AMENDMENTS.**

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second paragraph and the penultimate paragraph; and

(2) by adding at the end the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

**Subtitle B—Death Penalty Litigation Procedures**

**SEC. 211. SHORT TITLE FOR SUBTITLE B.**

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1992".

**SEC. 212. DEATH PENALTY LITIGATION PROCEDURES.**

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

**"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES**

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

**"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment**

"(a) APPLICATION OF CHAPTER.—This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) ESTABLISHMENT OF APPOINTMENT MECHANISM.—This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) OFFER OF COUNSEL.—Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing 1 or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) PREVIOUS REPRESENTATION.—No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) NO GROUND FOR RELIEF.—The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

**"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions**

"(a) STAY.—Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) EXPIRATION OF STAY.—A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) LIMITATION ON FURTHER STAY.—If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

**"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules**

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

**"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication**

"(a) REVIEW OF RECORD; HEARING.—Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) ADJUDICATION.—Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

**"§ 2260. Certificate of probable cause inapplicable**

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

**"§ 2261. Application to State unitary review procedure**

"(a) IN GENERAL.—For purposes of this section, the term 'unitary review procedure' means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) OFFER OF COUNSEL.—A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) APPLICATION OF OTHER SECTIONS.—Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.

**"§ 2262. Limitation periods for determining petitions**

"(a) IN GENERAL.—The adjudication of any petition under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of the application unless a responsive pleading is required, in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) APPLICATION OF SECTION.—The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the redetermination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) RULE OF CONSTRUCTION.—The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) NO GROUND FOR RELIEF.—The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) REPORT.—The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

**"§ 2263. Rule of construction**

"This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

**"154. Special habeas corpus procedures in capital cases ..... 2256.".**

### Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

**SEC. 221. FUNDING FOR DEATH PENALTY PROSECUTIONS.**

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after section 511 the following new section:

"FUNDING FOR DEATH PENALTY PROSECUTIONS

"SEC. 511A. Notwithstanding any other provision of this part, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

## TITLE III—EXCLUSIONARY RULE

**SEC. 301. ADMISSIBILITY OF CERTAIN EVIDENCE.**

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 3509. Admissibility of evidence obtained by search or seizure**

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence that is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 223 of title 28, United States Code, is amended by adding at the end the following new item:

"3509. Admissibility of evidence obtained by search or seizure.".

## TITLE IV—FIREARMS AND RELATED AMENDMENTS

**SEC. 401. INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.**

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly uses, carries, or otherwise possesses a firearm, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 10 years;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years; or

"(iii) knowingly uses, carries, or otherwise possesses a firearm that is a machinegun or destructive device, or that is equipped with a firearm silencer or firearm muffler, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 30 years.

"(B)(i) In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years for a violation of subparagraph (A)(i), to imprisonment for 30 years for a violation of subparagraph (A)(ii), and life imprisonment for a violation of subparagraph (A)(iii).

"(ii) In the case of a third or subsequent conviction under this subsection, or a conviction for a violation of subparagraph (A)(ii) that results in the death of another person, a person shall be sentenced to life imprisonment.

"(C) Notwithstanding any other law, a term of imprisonment under this subsection shall run concurrently with any other term of imprisonment imposed for the underlying crime.

"(D) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.".

**SEC. 402. INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.**

Section 844(h) of title 18, United States Code, is amended by striking "ten" and inserting "20".

**SEC. 403. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.**

Section 924 of title 18, United States Code, as amended by section 136, is amended by adding at the end the following new subsection:

"(j) Whoever, with the intent to engage in or to promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3) of this section),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

**SEC. 404. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES.**

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 403, is amended by adding at the end the following new subsection:

"(k) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned not less than 2 nor more than 10 years, fined in accordance with this title, or both.".

**SEC. 405. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.**

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B) by striking "(a)(6),"; and

(2) in paragraph (2) by inserting "(a)(6)," after "subsection".

**SEC. 406. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.**

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Any"; and

(2) by adding at the end the following new paragraphs:

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

**SEC. 407. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.**

Section 924 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."; and

(2) in subsection (e)(1) by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

**SEC. 408. ENHANCED PENALTIES FOR USE OF A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.**

Section 924(c)(1) of title 18, United States Code, as amended by section 401, is amended in subparagraph (A) by inserting "or during and in relation to any felony punishable under chapter 25" after "United States,".

**SEC. 409. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.**

(a) ONE PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsections (e)(2) (A) and (B) of this section), a sentence imposed under this paragraph shall include a term of imprisonment of not less than 5 years" before the period.

(b) TWO PRIOR CONVICTIONS.—Section 924 of title 18, United States Code, as amended by section 404, is amended by adding at the end the following new subsection:

"(l)(1) Notwithstanding subsection (a)(2), any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B) of this section) or a serious drug offense (as defined in subsection (e)(2)(A) of this section) committed on occasions different from one another shall be fined as provided in this title, imprisoned not less than 10 years and not more than 20 years, or both.

"(2) Notwithstanding any other law, the court shall not suspend the sentence of, or grant a probationary sentence to, a person described in paragraph (1) with respect to the conviction under section 922(g).".

**SEC. 410. RECEIPT OF FIREARMS BY NONRESIDENT.**

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)(C) by striking "and";

(2) in paragraph (8)(C) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

**SEC. 411. PROHIBITION AGAINST CONSPIRACY TO VIOLATE FEDERAL FIREARMS OR EXPLOSIVES LAWS.**

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 409(b), is amended by adding at the end the following new subsection:

"(m) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 404(b), is amended by adding at the end the following new subsection:

"(l) Whoever conspires to commit any offense punishable under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

**SEC. 412. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.**

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 411(a), is amended by adding at the end the following new subsection:

"(n) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 411(b), is amended by adding at the end the following new subsection:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

**SEC. 413. PROHIBITION AGAINST DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.**

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

**SEC. 414. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.**

Section 924 of title 18, United States Code, as amended by section 412(a), is amended by adding at the end the following new subsection:

"(o) Whoever, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

**SEC. 415. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.**

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or for-

eign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

**SEC. 416. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.**

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

**SEC. 417. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.**

Section 844(h) of title 18, United States Code, is amended—

(1) by striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) by striking "used or carried" and inserting "used, carried, or possessed".

**SEC. 418. DISPOSITION OF FORFEITED FIREARMS.**

Subsection 5872(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) the Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) if the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel or rare or because of its association with some historical figure, period, or event, the Secretary may sell the firearm, after public notice, at public sale to a dealer licensed under chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed or pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, who shall destroy or provide for the destruction of such firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

**SEC. 419. DEFINITION OF SERIOUS DRUG OFFENSE.**

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by adding "or" at the end of clause (ii); and

(3) by adding at the end the following new clause:

"(iii) an offense under State law that, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) as that Act provided at the time of the offense, would have been punishable by a maximum term of 10 years or more;".

**SEC. 420. DEFINITION OF BURGLARY UNDER THE ARMED CAREER CRIMINAL STATUTE.**

Section 924(e)(2) of title 18, United States Code, 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) the term 'burglary' means a crime that—

"(i) consists of entering or remaining surreptitiously within a building that is the property of another person with intent to engage in conduct constituting a Federal or State offense; and

"(ii) is punishable by a term of imprisonment exceeding 1 year.".

## TITLE V—JUVENILES AND GANGS

### Subtitle A—Increased Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

**SEC. 501. STRENGTHENED FEDERAL PENALTIES.**

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

### Subtitle B—Antigang Provisions

**SEC. 511. GRANT PROGRAM.**

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

(1) by inserting after the part heading the following subpart heading:

"Subpart I—General Grant Programs";

and

(2) by adding at the end the following new subpart:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) AUTHORIZATION.—The Administrator may make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) PARTICULAR PURPOSES.—The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools.

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop within the juvenile justice system, including the juvenile corrections system, innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(4) To reduce juvenile drug and gang-related activity in public housing projects.

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to—

"(A) identify drug-dependent or gang-involved juvenile offenders; and

"(B) provide appropriate counseling and treatment to such offenders.

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic, or artistic enrichment that also teach that drug and gang involvement are wrong.

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention, and treatment programs for juveniles who are likely to participate in drug trafficking, drug use, or gang-related activities.

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls' and boys' clubs, scout troops, and little leagues.

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers.

"(10) To provide education and treatment programs for juveniles exposed to severe violence in their homes, schools, or neighborhoods.

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement.

"(c) USE OF FUNDS.—Of the funds made available to each State under this section in any fiscal year, 50 percent shall be used for juvenile drug supply reduction programs and 50 percent shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) PURPOSE.—(1) The purpose of this section is to—

"(A) provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs;

"(B) replicate and demonstrate such programs to serve as national, regional, or local models that could be used, in whole or in part, by other public and private juvenile justice programs; and

"(C) provide technical assistance and training to public or private organizations to implement similar programs.

"(2) In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 20

percent shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs or projects.

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) PURPOSE.—The purpose of this section is to—

"(1) provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime-, drug-, and alcohol-related challenges faced by juveniles residing at or near ports of entry into the United States and in other international border communities, including rural localities;

"(2) replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) provide technical assistance and training to public and private organizations to implement similar programs.

"(b) AUTHORIZATION OF GRANTS AND CONTRACTS.—The Administrator may make grants to, or enter into contracts with, public or private nonprofit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles residing at or near ports of entry into the United States or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) ALLOCATION OF APPROPRIATIONS.—Of the amounts appropriated for this subpart, 5 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 and subsection (a). Grants made under this section may be made for amounts of up to 100 percent of the costs of the programs.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 234. There are authorized to be appropriated $100,000,000 for fiscal year 1992 and such sums as are necessary for fiscal year 1993 to carry out this subpart.

"ALLOCATION OF FUNDS

"SEC. 235. Of the amounts appropriated for this subpart for any fiscal year, the amount remaining after setting aside the amounts required to be reserved to carry out sections 232 and 233 shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States.

"(2) Of the funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles residing in the State bears to the population of juveniles residing in all the States.

"APPLICATION

"SEC. 236. (a) IN GENERAL.—Each State applying for a grant under section 231 and each public or private entity applying for grants under section 232 or 233 shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) REGULATIONS.—To the extent practicable, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the regulations governing applications required under subpart I of this part and subpart II of part C, including the regulations relating to competition.

"(c) COORDINATION OF ASSISTANCE.—Each application described in subsection (a) shall include a detailed description of how the funds received under this subpart will be coordinated with assistance provided under subpart I of this part and part C of this title and assistance provided by the Bureau of Justice Assistance under the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Programs (42 U.S.C. 3750 et seq.).

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 237. The procedures and time limits imposed on the Federal and State governments under sections 505 and 508 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755 and 3758) relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

**SEC. 512. CONFORMING REPEALER AND AMENDMENTS.**

(a) REPEAL OF PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is repealed, and part E of title II of that Act is redesignated as part D.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and by striking "(other than part D)"; and

(B) by striking paragraph (2); and

(2) in subsection (b) by striking "(other than part D)".

**SEC. 513. CRIMINAL STREET GANGS.**

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 25 the following new chapter:

**"CHAPTER 26—CRIMINAL STREET GANGS**

"Sec.

"521. Criminal street gangs.

**"§ 521. Criminal street gangs**

"(a) ENHANCED PENALTY.—Whoever, under the circumstances described in subsection (c), commits an offense described in subsection (b), shall, in addition to any other sentence authorized by law, be sentenced to a term of imprisonment of not more than 10 years and may also be fined under this title. A sentence of imprisonment imposed under this subsection shall run consecutively to any other sentence that is imposed.

"(b) OFFENSES.—The offenses referred to in subsection (a) are—

"(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(2) a Federal felony crime of violence;

"(3) a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.); and

"(4) a conspiracy to commit an offense described in paragraph (1), (2), or (3).

"(c) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

"(1) that the offense described in subsection (b) was committed by a member of, on behalf of, or in association with a criminal street gang; and

"(2) within 5 years prior to the date of the offense, the offender had been convicted of—

"(A) an offense described in subsection (b);

"(B) a State offense that—

"(i) involves a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(ii) is a crime of violence for which the maximum penalty is more than 1 year's imprisonment;

"(C) a Federal or State offense that involves the theft or destruction of property for which the maximum penalty is more than 1 year's imprisonment; or

"(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).

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

"(1) the term 'criminal street gang' means a group, club, organization, or association of 5 or more persons—

"(A) whose members engage, or have engaged within the past 5 years, in a continuing series of any of the offenses described in subsection (b); and

"(B) whose activities affect interstate or foreign commerce; and

"(2) the term 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent felony or controlled substances felony.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following new item:

**"26. Criminal street gangs ..... 521".**

**Subtitle C—Juvenile Penalties**

**SEC. 521 TREATMENT OF VIOLENT JUVENILES AS ADULTS.**

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh undesignated paragraphs as subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as designated by subsection (a), is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as designated by subsection (a), is amended to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), a juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless the juvenile has requested in writing upon advice of counsel to be proceeded against as an adult.

"(2) With respect to a juvenile 15 years and older alleged to have committed an act after his or her 15th birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 924 (b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, that such a transfer would be in the interest of justice.

"(3) A juvenile who is alleged to have committed an act after his or her 16th birthday which if committed by an adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another,

or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844 (d), (e), (f), (h), (i) or 2275 of this title, subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), and (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this subsection or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as designated by subsection (a), is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end the following new paragraph:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

**SEC. 522. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.**

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, as amended by section 422, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking "and" at the end of clause (iii) and inserting "or"; and

(3) by adding at the end the following new clause:

"(iv) any act of juvenile delinquency that, if it were committed by an adult, would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

**SEC. 523. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.**

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

**"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS**

**"SEC. 1601. GRANT AUTHORIZATION.**

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electric monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

**"SEC. 1602. STATE APPLICATIONS.**

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I—

"(1) shall prepare the application required under section 1602; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

**"SEC. 1603. REVIEW OF STATE APPLICATIONS.**

"(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1601(b) for young offenders.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

**"SEC. 1604. LOCAL APPLICATIONS.**

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1602(b).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

**"SEC. 1605. ALLOCATION AND DISTRIBUTION OF FUNDS.**

"(a) STATE DISTRIBUTION.—Of the total amount appropriated for this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders in the State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State for the purposes specified under section 1601 the portion of those funds that bears the same ratio to the aggregate amount of those funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified under section 1601.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for the fiscal year will not be used by the State or that a State is not eligible to receive funds under section 1601, the Director shall award such funds to units of local government in the State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1602(a) for the fiscal year for which the projects receive assistance under this part.

**"SEC. 1606. EVALUATION.**

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1601. Grant authorization.
"Sec. 1602. State applications.
"Sec. 1603. Review of State applications.
"Sec. 1604. Local applications.
"Sec. 1605. Allocation and distribution of funds.
"Sec. 1606. Evaluation.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(24) The term 'young offender' means an individual 28 years of age or younger.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1054(a), is amended by adding at the end the following new paragraph:

"(10) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part P.".

### Subtitle D—Other Provisions

**SEC. 531. BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES.**

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-olds in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 931 of title 18, United States Code.".

**SEC. 532. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.**

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by July 1, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1992 such sums as are necessary to carry out this section.

**SEC. 533. CLARIFICATION OF REQUIREMENT THAT ANY PRIOR RECORD OF A JUVENILE BE PRODUCED BEFORE THE COMMENCEMENT OF JUVENILE PROCEEDINGS.**

Section 5032(j) of title 18, United States Code, as designated by section 521(a), is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 until".

## TITLE VI—TERRORISM AND INTERNATIONAL MATTERS

**SEC. 601. TERRORISM CIVIL REMEDY.**

(a) REINSTATEMENT OF LAW.—The amendments made by section 132 of the Military Construction Appropriations Act, 1991 (104 Stat. 2250), are repealed effective as of April 10, 1991.

(b) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (a), is amended—

(1) in section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) as section 2332 and amending the heading for section 2332, as redesignated, to read as follows:

**"§ 2332. Criminal penalties";**

(3) by inserting before section 2332, as redesignated by paragraph (2), the following new section:

**"§ 2331. Definitions**

"As used in this chapter—

"(1) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin;

"(2) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act; and

"(4) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property."; and

(4) by inserting after section 2332, as redesignated, the following new sections:

**"§ 2333. Civil remedies**

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902 (i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (k), (l), (n), and (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

**"§ 2334. Jurisdiction and venue**

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, any civil action under section 2333 against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 may be served in any other district where the defendant resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy that is substantially the same as the one available in the courts of the United States.

**"§ 2335. Limitation of actions**

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of the defendant's whereabouts, shall not be counted for the purposes of the period of limitation prescribed by subsection (a).

**"§ 2336. Other limitations**

"(a) ACTS OF WAR.—No action shall be maintained under section 2333 for injury or loss by reason of an act of war.

"(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the attorney for the Government may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any objections raised by the Government in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

**"§ 2337. Suits against Government officials**

"No action shall be maintained under section 2333 against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within the officer's or employee's official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within the officer's or employee's official capacity or under color of legal authority.

**"§ 2338. Exclusive Federal jurisdiction**

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.".

(c) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 113A of title 18, United States Code is amended to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(2) The item relating to chapter 113A in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

**"113A. Terrorism ..... 2331".**

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

**SEC. 602. PROVIDING MATERIAL SUPPORT TO TERRORISTS.**

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 2339. Providing material support to terrorists**

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than 10 years, or both. For purposes of this section, material support or resources includes currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(b)(1), is amended by adding at the end the following new item:

"2339. Providing material support to terrorists.".

**SEC. 603. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.**

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any property, real or personal—

"(i) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; or

"(ii) constituting or derived from the gross profits or other proceeds obtained from, a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) Any property, real or personal—

"(A) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; or

"(B) constituting or derived from the gross profits or other proceeds obtained from, a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

**SEC. 604. ALIEN WITNESS COOPERATION.**

(a) AMENDMENT OF CHAPTER 224 OF TITLE 18.—Chapter 224 of title 18, United States Code, is amended—

(1) by redesignating section 3528 as section 3529; and

(2) by inserting after section 3527 the following new section:

**"§ 3528. Aliens; waiver of admission requirements**

"(a) IN GENERAL.—Upon authorizing protection to any alien under this chapter, the United States shall provide the alien with appropriate immigration visas and allow the alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of permanent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien's admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

"(b) ALIEN WITH FELONY CONVICTIONS.—Notwithstanding any other provision of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of 2 years. Upon a showing that the alien is still being provided protection, or that protection remains available to the alien in accordance with this chapter, or that the alien is still cooperating with the Government and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien's obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to an alien who would be excluded because of felony convictions unless the Attorney General determines, pursuant to regulations which shall be prescribed by the Attorney General, that granting permanent residence status to the alien is necessary in the interests of justice and comports with safety of the community.

"(c) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed 200 persons in any fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.

"(d) DEFINITIONS.—As used in this section, the terms 'alien' and 'United States' have the meanings stated in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 224 of title 18, United States Code, is amended by striking the item relating to section 3528 and inserting the following:

"3528. Aliens; waiver of admission requirements.
"3529. Definition.".

**SEC. 605. TERRITORIAL SEA EXTENDING TO 12 MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.**

The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

**SEC. 606. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.**

Section 13 of title 18, United States Code is amended—

(1) in subsection (a), by inserting after "title" the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, territory, possession, or district"; and

(2) by inserting at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of the State, territory, possession, or district within which it would lie if the boundaries of the State, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.".

**SEC. 607. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.**

Section 7 of title 18, United States Code, is amended by inserting at the end the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

**SEC. 608. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.**

Section 2332 of title 18, United States Code, as redesignated by section 601(a)(2), is amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "20"; and

(B) in paragraph (3) by striking "three" and inserting "10"; and

(2) in subsection (c) by striking "five" and inserting "10".

**SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated in each of the fiscal years 1992, 1993, and 1994, in addition to any other amounts specified in appropriations Acts, for counterterrorist operations and programs:

(1) for the Federal Bureau of Investigation, $25,000,000;

(2) for the Department of State, $10,000,000;

(3) for the United States Customs Service, $7,500,000;

(4) for the United States Secret Service, $2,500,000;

(5) for the Bureau of Alcohol, Tobacco, and Firearms, $2,500,000;

(6) for the Federal Aviation Administration, $2,500,000; and

(7) for grants to State and local law enforcement agencies, to be administered by the Office of Justice Programs in the Department of Justice, in consultation with the Federal Bureau of Investigation, $25,000,000.

**SEC. 610. ENHANCED PENALTIES FOR CERTAIN OFFENSES.**

(a) INTERNATIONAL ECONOMIC EMERGENCY POWERS ACT.—(1) Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(2) Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) SECTION 1541 OF TITLE 18.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "5 years".

(c) CHAPTER 75 OF TITLE 18.—Sections 1542, 1543, 1544, and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "10 years".

(d) SECTION 1545 OF TITLE 18.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "10 years".

**SEC. 611. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.**

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than 3 levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

**SEC. 612. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.**

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

**"§ 3286. Extension of statute of limitations for certain terrorism offenses**

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32, 36, 112, 351, 1116, 1203, 1361, 1751, 2280, 2281, 2332, 2339A, or 2340A of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1572 (i), (j), (k), (l), and (n)), unless the indictment is found or the information is instituted within 10 years next after such offense shall have been committed.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitations for certain terrorism offenses.".

**SEC. 613. INTERNATIONAL PARENTAL KIDNAPING.**

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 1204. International parental kidnaping**

"(a) OFFENSE.—Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title, imprisoned not more than 3 years, or both.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) RULE OF CONSTRUCTION.—This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 55 of title 18, United States Code, is amended by adding at the end the following new item:

"1204. International parental kidnapping.".

**SEC. 614. STATE COURT PROGRAMS REGARDING INTERSTATE AND INTERNATIONAL PARENTAL CHILD ABDUCTION.**

There is authorized to be appropriated $250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction.

**SEC. 615. FOREIGN MURDER OF UNITED STATES NATIONALS.**

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 141(a), is amended by adding at the end the following new section:

**"§ 1120. Foreign murder of United States nationals**

"(a) OFFENSE.—Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

"(b) APPROVAL OF PROSECUTION.—No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) CRITERIA FOR APPROVAL.—No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) ASSISTANCE FROM OTHER AGENCIES.—In the course of the enforcement of this section and notwithstanding any other law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1120".

(2) The chapter analysis for chapter 51 of title 18, United States Code, as amended by

section 141(b), is amended by adding at the end the following new item:

"1120. Foreign murder of United States nationals.".

**SEC. 616. EXTRADITION.**

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "The provisions of this chapter"; and

(2) by adding at the end the following new subsections:

"(b) SURRENDER WITHOUT REGARD TO EXISTENCE OF EXTRADITION TREATY.—This chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies in writing that—

"(1) evidence has been presented by the foreign government that indicates that, if the offenses had been committed in the United States, they would constitute crimes of violence (as defined under section 16); and

"(2) the offenses charged are not of a political nature.

"(c) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

**SEC. 617. GAMBLING DEVICES ON UNITED STATES SHIPS.**

Section 5 of the Act of January 2, 1951 (commonly known as the "Johnson Act") (15 U.S.C. 1175), is amended—

(1) by inserting "(a) IN GENERAL.—" before "It shall be unlawful"; and

(2) by adding at the end the following new subsection:

"(b) APPLICATION OF SUBSECTION (a).—

"(1) EXCEPTION.—Except as provided in paragraph (2), subsection (a) does not apply to the repair, transportation, use, or possession of a gambling device on a vessel documented under chapter 121 of title 46, United States Code, when the vessel is on a voyage—

"(A) on the high seas; or

"(B) on waters that are within the admiralty and maritime jurisdiction of the United States but out of the jurisdiction of any State.

"(2) VOYAGES AND SEGMENTS BEGINNING AND ENDING IN THE SAME STATE OR POSSESSION.—The exception stated in paragraph (1) does not apply to the repair, transportation, possession, or use of a gambling device on a vessel that is on a voyage or segment of a voyage—

"(A) that begins and ends in the same State or possession of the United States,

"(B) during which the vessel does not make an intervening stop in another State or possession of the United States or a foreign country,

if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute that prohibits such repair, transportation, possession, or use.".

**SEC. 618. FBI ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.**

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—

"(1) NAME, ADDRESS, AND LENGTH OF SERVICE ONLY.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, and length of service of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of the provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section) under circumstances giving reason to believe that the communication concerned international terrorism (as defined in that section) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.

"(2) NAME, ADDRESS, LENGTH OF SERVICE, AND TOLL BILLING RECORDS.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, length of service, and toll billing records of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section).".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

## TITLE VII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

### Subtitle A—Sexual Violence and Child Abuse

**SEC. 701. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW 16 YEARS OF AGE.**

Section 2246(2) of title 18, United States Code, as redesignated by section 137(a)(1), is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "and" at the end of subparagraph (C) and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or to arouse or gratify the sexual desire of, any person;".

**SEC. 702. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.**

(a) PENALTY.—Chapter 109A of title 18, United States Code, as amended by section 137(a), is amended—

(1) by redesignating section 2246 as section 2247; and

(2) by inserting after section 2245 the following new section:

**"§ 2246. Penalties for subsequent offenses**

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 137(b), is amended by striking the item relating to section 2246 and inserting the following:

"2246. Penalties for subsequent offenses.

"2247. Definitions for chapter.".

**SEC. 703. RESTITUTION FOR VICTIMS OF SEX OFFENSES.**

Section 3663(b)(2) of title 18, United States Code, is amended by inserting "or an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim".

**SEC. 704. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.**

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, as amended by section 702(a), is amended—

(1) by redesignating section 2247 as section 2248; and

(2) by inserting after section 2246 the following new section:

**"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty**

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as is feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this sub-

section may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend the sentencing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that the offender was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 702(b), is amended by striking the item relating to section 2247 and inserting the following:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.
"2248. Definitions for chapter.".

**SEC. 705. PAYMENT OF COST OF HIV TESTING FOR VICTIM.**

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by inserting before the period at the end "and the cost of up to 2 tests of the victim for the human immunodeficiency virus during the 12 months following the assault".

## Subtitle B—Victims' Rights

**SEC. 711. RESTITUTION AMENDMENTS.**

Section 3663(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(b) SUSPENSION OF FEDERAL BENEFITS.—Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

**SEC. 712. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.**

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1) by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before ", or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code; and

"(2) 'victim' means an individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of 18 years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.".

**SEC. 713. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.**

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

**SEC. 714. MANDATORY RESTITUTION AND OTHER PROVISIONS.**

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

(B) by adding at the end the following new paragraph:

"(4) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (h), and (i), as redesignated by section 711(b)(1);

(6) by redesignating subsection (g), as added by section 711(b)(2), as subsection (d); and

(7) by adding at the end the following new subsections:

"(e)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(f) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(g) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(h)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until

the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(i) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(j) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(k) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(l) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive restitution, in the same manner as a judgment in a civil action.

"(m) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

## Subtitle C—Crime Victims Fund

### SEC. 721. CRIME VICTIMS FUND.

(a) ELIMINATION OF FUND CEILINGS AND SUNSET PROVISION.—Section 1402 (c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is repealed.

(b) ALLOCATIONS.—

(1) GENERALLY.—Section 1402(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)) is amended to read as follows:

"(2) The Fund shall be available as follows:

"(A) Of the total deposited in the Fund during a particular fiscal year—

"(i) the first $10,000,000 shall be available for grants under section 1404A;

"(ii) the next sums deposited, up to the reserved portion (as described in subparagraph (C)), shall be made available to the judicial branch for administrative costs to carry out the functions of that branch under sections 3611 and 3612 of title 18, United States Code; and

"(iii) of the sums remaining after the allocations under clauses (i) and (ii)—

"(I) 4 percent shall be available for grants under section 1404(c)(1); and

"(II) 96 percent shall be available in equal amounts for grants under sections 1403 and 1404(a).

"(B) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000.

"(C) The reserved portion referred to in subparagraph (A) is $6,200,000 in each of fiscal years 1992 through 1995 and $3,000,000 in each fiscal year thereafter.".

(2) CONFORMING CROSS-REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(iv)" and inserting "(i)".

(c) AMOUNTS AWARDED AND UNSPENT.—Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Except as provided in paragraph (2), any" and inserting "Any";

(B) by striking "succeeding fiscal year" and inserting "2 succeeding fiscal years";

(C) by striking "which year" and inserting "which period"; and

(D) by striking "the general fund of the Treasury" and inserting "the Fund"; and

(2) by striking paragraph (2).

### SEC. 722. PERCENTAGE CHANGE IN CRIME VICTIM COMPENSATION FORMULA.

Section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "40 percent" and inserting "45 percent".

### SEC. 723. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The last sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) The Director may permit not more than 5 percent of a grant made under this section to be used for the administration of the crime victim compensation program receiving the grant.".

### SEC. 724. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

### SEC. 725. USE OF UNSPENT SECTION 1403 MONEY.

Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(1)) is amended—

(1) by striking "or for the purpose of grants under section 1403 but not used for that purpose,"; and

(2) by adding at the end the following: "The Director, in the Director's discretion, may use amounts made available under section 1402(d)(2) for the purposes of grants under section 1403 but not used for that purpose, for grants under this subsection, either in the year such amounts are not so used, or the next year.".

### SEC. 726. UNDERSERVED VICTIMS.

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following new paragraph:

"(6) In making the certification required by paragraph (2)(B), the chief executive shall give particular attention to children who are victims of violent street crime.".

### SEC. 727. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

**SEC. 728. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.**

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(A)), as amended by section 726, is amended—

(1) in paragraph (1) by inserting ", except as provided in paragraph (7)" after "programs"; and

(2) by adding at the end the following new paragraph:

"(7) The Director may permit not more than 5 percent of sums provided under this subsection to be used by the chief executive of each State for the administration of such sums.".

**SEC. 729. CHANGE OF DUE DATE FOR REQUIRED REPORT.**

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended—

(1) by striking "December 31, 1990" and inserting "May 31, 1993"; and

(2) by striking "December 31" the second place it appears and inserting "May 31".

**SEC. 730. MAINTENANCE OF EFFORT.**

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

**SEC. 731. DELAYED EFFECTIVE DATE FOR CERTAIN PROVISIONS.**

Sections 721(b), 722, 723, and 728, and the amendments made by those sections, shall take effect with respect to the first fiscal year that begins after the date of enactment of this Act for which the Director certifies that there are sufficient sums in the Victim Assistance Fund and the Victims Compensation Fund, as of the end of the previous fiscal year, to make the allocations required under such sections and amendments without reducing the then current funding levels of programs supported by such Funds.

**Subtitle D—National Child Protection Act**

**SEC. 741. SHORT TITLE.**

This subtitle may be cited as the "National Child Protection Act of 1992".

**SEC. 742. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) more than 2,500,000 reports of suspected child abuse and neglect are made each year, and increases have occurred in recent years in the abuse of children by persons who have previously committed crimes of child abuse or other serious crimes;

(2) although the great majority of child care providers are caring and dedicated professionals, child abusers and others who harm or prey on children frequently seek employment in or volunteer for positions that give them access to children;

(3) nearly 6,000,000 children received day care in 1990, and this total is growing rapidly to an estimated 8,000,000 children by 1995;

(4) exposure to child abusers and others who harm or prey on children is harmful to the physical and emotional well-being of children;

(5) there is no reliable, centralized national source through which child care organizations may obtain the benefit of a nationwide criminal background check on persons who provide or seek to provide child care;

(6) some States maintain automated criminal background files and provide criminal history information to child care organizations on persons who provide or seek to provide child care; and

(7) because State and national criminal justice databases are inadequate to permit effective national background checks, persons convicted of crimes of child abuse or other serious crimes may gain employment at a child care organization.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

**SEC. 743. DEFINITIONS.**

For the purposes of this subtitle—

(1) the term "authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this Act;

(2) the term "background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance;

(3) the term "child" means a person who is a child for purposes of the criminal child abuse law of a State;

(4) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty;

(5) the term "child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(6) the term "child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, legal residence address, a brief description of the child abuse crime or offenses for which the person is under indictment or has been convicted, and any other information that the Attorney General determines may be useful in identifying persons under indictment for, or convicted of, a child abuse crime;

(7) the term "child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children;

(8) the term "domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State;

(9) the term "exploitation" means child pornography and child prostitution;

(10) the term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition;

(11) the term "national criminal background check system" means the system of information and identification relating to convicted and accused child abuse offenders that is maintained by the Attorney General under this subtitle;

(12) the term "negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child;

(13) the term "physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm;

(14) the term "provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;

(15) the term "qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services;

(16) the term "sex crime" means an act of sexual abuse that is a criminal act;

(17) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children; and

(18) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

**SEC. 744. REPORTING BY THE STATES.**

(a) IN GENERAL.—An authorized agency of a State shall report child abuse crime information to the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS TO THE NATIONAL CRIMINAL BACK-

GROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis to the national criminal background check system;

(B) establish guidelines for the reporting of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this subtitle; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of child abuse crime case dispositions in computerized criminal history files for all child abuse crime cases in which there has been an entry of activity within the last 5 years; and

(B) continue to maintain such a system.

(c) EXCHANGE OF INFORMATION.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of information and technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim of a crime.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 743, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

**SEC. 745. BACKGROUND CHECKS.**

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and other criminal justice recordkeeping systems and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), including procedures for carrying out the purposes of this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime;

(ii) is not certain to include arrest information; and

(iii) should not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a)—

(i) at a minimum, state whether the background check information set forth in the identification document required under subparagraph (A) is complete and accurate; and

(ii) be limited to the information reasonably required to accomplish the purposes of this subtitle;

(F) that no qualified entity may take action adverse to a provider, except that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care, on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge;

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the providers;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check; and

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this subtitle, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this subtitle and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) RECORDS EXCHANGE.—The Attorney General may exchange Federal Bureau of Investigation identification records with authorized agencies for purposes of background checks under subsection (a) and may by regulation authorize further dissemination of such records by authorized agencies for such purposes.

(e) REGULATIONS.—(1) The Attorney General shall by regulation prescribe such other measures as may be required to carry out the purposes of this subtitle, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

**SEC. 746. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.**

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 744 of the National Child Protection Act of 1992 with the Attorney General for the purpose of implementing the National Child Protection Act of 1992.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history records in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1992, 1993, and 1994.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 744 of this Act.

## Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

**SEC. 751. SHORT TITLE.**

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

**SEC. 752. ESTABLISHMENT OF PROGRAM.**

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months' imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

**SEC. 753. STATE COMPLIANCE.**

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

## Subtitle F—Domestic Violence

**SEC. 761. DOMESTIC VIOLENCE GRANTS.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 523(a), is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following new part:

### "Part Q—Domestic Violence Intervention

**"SEC. 1701. GRANT AUTHORIZATION.**

"The Director of the Bureau of Justice Assistance may make grants to 10 States for the purpose of assisting States in implementing a civil and criminal response to domestic violence.

**"SEC. 1702. USE OF FUNDS.**

"Grants made by the Director under this part shall be used—

"(1) to encourage increased prosecutions for domestic violence crimes;

"(2) to report more accurately the incidences of domestic violence;

"(3) to facilitate arrests and aggressive prosecution policies;

"(4) to provide legal advocacy services for victims of domestic violence; and

"(5) to improve the knowledge of health professionals regarding domestic violence and facilitate cooperation between health professionals, social service providers, and law enforcement personnel to better assist victims of domestic violence.".

**"SEC. 1703. APPLICATIONS.**

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 1702;

"(2) a description of the programs already in place to combat domestic violence;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information, if available, in such form and containing such information that the Director may require regarding domestic violence within that State.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the domestic violence problem within the State targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the State to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill those gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce domestic violence.

**"SEC. 1704. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.**

"(a) STATE MAXIMUM.—No State shall receive more than $2,500,000 under this part for any fiscal year.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 1703(c).

**"SEC. 1705. AWARD OF GRANTS.**

"The Director shall consider the following factors in awarding grants to States and shall give preference to States that have—

"(1) a law or policy that requires the arrest of a person who police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated a civil protection order;

"(2) a law or policy that discourages dual arrests;

"(3) laws or statewide prosecution policies that authorize and encourage prosecutors to pursue domestic violence cases in which a criminal case can be proved, including proceeding without the active involvement of the victim if necessary;

"(4) statewide guidelines for judges that—

"(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only 1 spouse has sought a restraining or protective order;

"(B) require any history of abuse against a child or against a parent to be considered when making child custody determinations; and

"(C) require judicial training on domestic violence and related civil and criminal court issues;

"(5) policies that provide for the coordination of court and legal victim advocacy services; and

"(6) policies that make existing remedies to domestic violence easily available to victims of domestic violence, including elimination of court fees and the provision of simple court forms.

**"SEC. 1706. REPORTS.**

"(a) REPORT TO DIRECTOR.—Each State that receives funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 1703(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 1703(b)(4); and

"(3) an evaluation of programs established under this part.

**"SEC. 1707. DEFINITIONS.**

"For the purposes of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'domestic violence' means any act or threatened act of violence, including any forceful detention of an individual, that—

"(A) results or threatens to result in physical injury; and

"(B) is committed by an individual against another individual (including an elderly individual) to whom the individual is or was related by blood or marriage or otherwise legally related or with whom the individual is or was lawfully residing.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 523(b), is amended by striking the matter relating to part Q and inserting the following:

"PART Q—DOMESTIC VIOLENCE INTERVENTION

"Sec. 1701. Grant authorization.
"Sec. 1702. Use of funds.
"Sec. 1703. Applications.
"Sec. 1704. Allocation of funds; limitations on grants.
"Sec. 1705. Award of grants.
"Sec. 1706. Reports.
"Sec. 1707. Definitions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 523(d), is amended by adding at the end the following new paragraph:

"(11) There are authorized to be appropriated $25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out projects under part Q.".

**SEC. 762. REPORT ON BATTERED WOMEN'S SYNDROME.**

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of battered women's syndrome and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

## Subtitle G—Other Provisions

**SEC. 771. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.**

(a) FINDINGS.—The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use America's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 21. Inducement of minor to commit an offense**

"(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

"(b) LIMITATION.—In the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

"(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Inducement of minor to commit an offense.".

**SEC. 772. DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.**

Section 438(a)(4)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the education agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

**SEC. 773. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.**

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Education, shall, by contract with an appropriate entity with expertise in college campus security, provide for a national baseline study to research the effectiveness of campus sexual assault policies for institutions of postsecondary education.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of sexual assault occurring on college and university campuses, and to whom the allegations are reported (including campus authorities, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to campus authorities which are reported to criminal authorities;

(3) the percentage of campus sexual assault allegations compared to noncampus sexual assault allegations which result in eventual criminal prosecution;

(4) State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of campus policies and practices in protecting the legal rights and interests of sexual assault victims and the accused, including consideration of—

(A) practices that might discourage the reporting of sexual assaults to local criminal authorities, or result in any form of obstruction of justice, and thus undermine the public interest in prosecuting perpetrators of sexual assault; and

(B) the ability of campus disciplinary hearings to properly address allegations of sexual assault;

(6) whether colleges and universities take adequate measures to ensure that victims are free of unwanted contact with alleged assailants;

(7) the grounds on which colleges and universities are sued in civil court regarding sexual assaults, the resolution of these cases, and measures that can be taken to prevent future lawsuits;

(8) the ways in which colleges and universities respond to allegations of sexual assault, including an assessment of which programs work the best;

(9) recommendations to redress concerns raised in the report; and

(10) any other issues or questions the Attorney General, with the concurrence of the Secretary of Education, deems to be appropriate to the study.

(c) REPORT.—The Secretary of Education shall review the results of the research required by this section and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate by September 1, 1995, coordinating that report with the report and dissemination required under section 485(f)(4) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(4)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $200,000 for the contract required by subsection (a).

**SEC. 774. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.**

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

## TITLE VIII—EQUAL JUSTICE ACT

**SEC. 801. SHORT TITLE.**

This title may be cited as the "Equal Justice Act".

**SEC. 802. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.**

(a) GENERAL RULE.—The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) DEFINITIONS.—For purposes of this title—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) the term "State" has the meaning given in section 513 of title 18, United States Code; and

(3) the term "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

**SEC. 803. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.**

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

**SEC. 804. FEDERAL CAPITAL CASES.**

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

**SEC. 805. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.**

(a) SECTION 241.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) SECTION 242.—Section 242 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in", and by striking "such inhabitant" and inserting "such person".

## TITLE IX—FUNDING, GRANT PROGRAMS, AND STUDIES

### Subtitle A—Safer Streets and Neighborhoods

**SEC. 901. SHORT TITLE.**

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1992".

**SEC. 902. GRANTS TO STATE AND LOCAL AGENCIES.**

Section 1001(a)(5) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

**SEC. 903. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.**

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)(1)) is amended by striking "1991" and inserting "1992".

**SEC. 904. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.**

Section 504(f) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(f)) is amended by striking "No" and inserting "Except for grants awarded to State and local governments for the purpose of participating in multi-jurisdictional drug task forces, no".

### Subtitle B—Retired Public Safety Officer Death Benefit

**SEC. 911. RETIRED PUBLIC SAFETY OFFICER DEATH BENEFIT.**

(a) PAYMENTS.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsection (a) by inserting "or a retired public safety officer has died as the direct and proximate result of a personal injury sustained while responding to a fire, rescue, or police emergency" after "line of duty";

(2) in subsection (b) by inserting "or a retired public safety officer has become permanently and totally disabled as the direct result of a catastrophic injury sustained while responding to a fire, rescue, or police emergency" after "line of duty"; and

(3) in subsections (c), (i), and (j) by inserting "or a retired public safety officer" after "public safety officer" each place it appears.

(b) LIMITATIONS.—Section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) is amended—

(1) in paragraph (1) by striking "the public safety officer or by such officer's intention" and inserting "the public safety officer or the retired public safety officer who had the intention";

(2) in paragraph (2) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer"; and

(3) in paragraph (3) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer".

(c) NATIONAL PROGRAM.—Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a-1) is amended by inserting before the period "or retired public safety officers who have died while responding to a fire, rescue, or police emergency".

(d) DEFINITIONS.—Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) by striking "and" after paragraph (6);

(2) by inserting "; and" at the end of paragraph (7); and

(3) by adding at the end the following new paragraph:

"(8) 'retired public safety officer' means a former public safety officer who has served a sufficient period of time in such capacity to become vested in the retirement system of a public agency with which the officer was employed and who retired from such agency in good standing.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to death or injuries occurring after the date of enactment of this Act.

(f) IRWIN RUTMAN PROGRAM.—Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended by inserting before section 1201 the following new section:

"NAME OF PROGRAM

"SEC. 1200. The program established under this part shall be known as the 'Irwin Rutman Retired Safety Officer's Benefit Program'.".

### Subtitle C—Study on Police Officers' Rights

**SEC. 921. STUDY ON POLICE OFFICERS' RIGHTS.**

The Attorney General, through the National Institute of Justice, shall conduct a study of the procedures followed in internal, noncriminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly and effectively. The study shall examine the adequacy of the rights available to law enforcement officers and members of the public in cases involving the performance of a law enforcement officer, including—

(1) notice;

(2) conduct of questioning;

(3) counsel;

(4) hearings;

(5) appeal; and

(6) sanctions.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to the Congress a report on the results of the study, along with findings and recommendations on strategies to guarantee fair and effective internal affairs investigations.

### Subtitle D—Community Policing

### CHAPTER 1—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

**SEC. 931. SHORT TITLE.**

This chapter may be cited as the "Police Corps and Law Enforcement Training and Education Act".

**SEC. 932. PURPOSES.**

The purposes of this chapter are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

**SEC. 933. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.**

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subchapter A and the Law Enforcement Scholarship program established in subchapter B and shall have authority to promulgate regulations to implement this subtitle.

**SEC. 934. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.**

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subchapter A or the Law Enforcement Scholarship program under subchapter B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this chapter;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subchapter A, meet the requirements of section 940; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subchapter B, meet the requirements of section 948.

### Subchapter A—Police Corps Program

**SEC. 935. DEFINITIONS.**

For the purposes of this subchapter—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 937;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 940.

**SEC. 936. SCHOLARSHIP ASSISTANCE.**

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(3) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to pay educational expenses incurred while in attendance at an institution of higher education—

(1) in a course of education leading to the award of a baccalaureate degree, including attendance at such an institution that does not itself award such a degree if the courses taken there are acceptable for credit toward a degree at an institution that does award such a degree, and including, in the discretion of the Director, such expenses incurred prior to enrollment in the Police Corps program; and

(2) for graduate and professional study.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under

this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 938, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 938; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (C) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 938.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section, the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

**SEC. 937. SELECTION OF PARTICIPANTS.**

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to the State Police Corps plan, including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this Act, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 939, and such a participant shall be subject to the same benefits and obligations under this chapter as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 939, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this subchapter that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, an institution of higher education—

(A) as a full-time student in an undergraduate program leading to the award of a baccalaureate degree; or

(B) for purposes of taking a graduate or professional course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

**SEC. 938. POLICE CORPS TRAINING.**

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subchapter.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective

maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 940 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

**SEC. 939. SERVICE OBLIGATION.**

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 938 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 936, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 936(d)(1)(C) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 936, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 936(d)(1)(C) shall not apply.

**SEC. 940. STATE PLAN REQUIREMENTS.**

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 937;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

**SEC. 941. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subchapter $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

**Subchapter B—Law Enforcement Scholarship Program**

**SEC. 942. SHORT TITLE.**

This subchapter may be cited as the "Law Enforcement Scholarships and Recruitment Act".

**SEC. 943. DEFINITIONS.**

As used in this subchapter—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

**SEC. 944. ALLOTMENT.**

From amounts appropriated pursuant to the authority of section 951, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this chapter in the State compared to the shortage of law enforcement personnel and the need for assistance under this subchapter in all States.

**SEC. 945. PROGRAM ESTABLISHED.**

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 944 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State receiving an allotment under section 944 the Federal share of the cost of the activities described in the application submitted pursuant to section 948.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subchapter shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 944 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this subchapter.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subchapter and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subchapter.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 944 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 944 shall ensure that each scholarship recipient under this subchapter be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this subchapter shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

**SEC. 946. SCHOLARSHIPS.**

(a) PERIOD OF AWARD.—Scholarships awarded under this chapter shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subchapter may use such scholarship for educational expenses at any institution of higher education.

**SEC. 947. ELIGIBILITY.**

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subchapter if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subchapter.

**SEC. 948. STATE APPLICATION.**

Each State desiring an allotment under section 944 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subchapter is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subchapter;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subchapter and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subchapter;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subchapter;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

**SEC. 949. LOCAL APPLICATION.**

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subchapter shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subchapter, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

**SEC. 950. SCHOLARSHIP AGREEMENT.**

(a) IN GENERAL.—Each individual who receives a scholarship under this subchapter shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this chapter in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this chapter may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subchapter.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each individual awarded a scholarship under this subchapter shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subchapter shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

**SEC. 951. AUTHORIZATION OF APPROPRIATIONS.**

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subchapter.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 945(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 945(a)(1)(B) and (2).

**Subchapter C—Reports**

**SEC. 952. REPORTS TO CONGRESS.**

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subchapter A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subchapter B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subchapter B; and

(5) describe the progress of the programs authorized by this chapter and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subchapter B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

**CHAPTER 2—COP-ON-THE-BEAT GRANTS**

**SEC. 961. SHORT TITLE.**

This chapter may be cited as "The Cop-on-the-Beat Act of 1992".

**SEC. 962. COP-ON-THE-BEAT GRANTS.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 761(a), is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following new part:

**"PART R—COP-ON-THE-BEAT GRANTS**

**"SEC. 1801. GRANT AUTHORIZATION.**

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities that have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in the community.

**"SEC. 1802. APPLICATION.**

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In an application under paragraph (1), a single office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1801;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

**"SEC. 1803. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.**

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1802(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802 for the fiscal year for which the projects receive assistance under this part.

**"SEC. 1804. AWARD OF GRANTS.**

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1802(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

**"SEC. 1805. REPORTS.**

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1802(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients; and

"(2) an evaluation of projects established under this part.

**"SEC. 1806. DEFINITIONS.**

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 761(b), is amended by striking the matter relating to part R and inserting the following new part:

"PART R—COP-ON-THE-BEAT GRANTS

"Sec. 1801. Grant authorization.
"Sec. 1802. Application.
"Sec. 1803. Allocation of funds; limitation on grants.
"Sec. 1804. Award of grants.
"Sec. 1805. Reports.
"Sec. 1806. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 761(c), is amended by adding at the end the following new paragraph:

"(12) There are authorized to be appropriated $150,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out projects under part R.".

**Subtitle E—Rural Crime Prevention Strategy**

**SEC. 971. FINDINGS.**

The Congress makes the following findings:

(1) The traditional supportive roles of the family, church, school, and community have declined in importance as a positive social factor influencing the prevention and control of crime in rural areas. As a result in recent years rural areas have experienced a marked increase in crime rates. This increase is taking its toll on rural law enforcement practitioners who are already encumbered by numerous characteristics that are unique to their rural circumstances.

(2) Compounding the increase in crime rates, rural police unlike their urban counterparts, are likely to encounter a multitude of nontraditional police tasks such as fire and railroad emergencies, search and rescue missions, animal control problems, livestock theft, wildlife enforcement, illegal distilleries, illegal crop farming and drug manufacturing, rural drug trafficking, and toxic dumping.

(3) These problems are further exacerbated by the rural officer's distinct disadvantage with respect to the lack of adequate training to manage these varied assignments, the low degree of specialization of job tasks, unique job stress factors, and inadequate data resources. Inadequate rural crime statistics and data analysis capabilities further frustrate the rural police organization's ability

to cope with the nature, extent, and trends of rural crime.

(4) Rural law enforcement agencies are at a critical juncture, and strategic planning and action are imperative. The Domestic Chemical Action Group convened by the National Institute of Justice in October 1990 has recommended that rural police receive training in various safety issues related to the identification, investigation, and seizure of illicit drug and chemical laboratories located in rural areas. Without such specialized training officials will face a high probability of explosions endangering police personnel and the community. National Institute of Justice sponsored research of environmental crime in major urban areas, including Los Angeles, has revealed the lack of police training in the identification, investigation, and clean-up of toxic and hazardous waste areas. It can be said with certainty that this recognized need for hazardous materials training is equally critical for rural police organizations.

**SEC. 972. STRATEGY TO ADDRESS RURAL CRIME.**

The purpose of this subtitle is to address the growing problems of rural crime in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in rural areas throughout the country in implementing specific programs and strategies which offer a high probability of improving the functioning of their criminal justice systems.

**SEC. 973. NATIONAL INSTITUTE OF JUSTICE NATIONAL ASSESSMENT.**

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to in this subtitle as the "Director") shall conduct a national assessment of the nature and extent of rural crime in the United States, the needs of law enforcement and criminal justice professionals in rural States and communities, and promising strategies to respond effectively to those challenges, including—

(1) the problem of clandestine drug laboratories; changing patterns in their location and operation; safety and liability issues for both law enforcement officers and the community in the identification, investigation, seizure, and clean-up of clandestine laboratories;

(2) other environmental crimes, such as the dumping of hazardous and toxic wastes; the pollution of streams, rivers, and ground water; and access of rural communities to the expertise necessary to successfully identify, investigate, and prosecute such crimes;

(3) the cultivation of illegal crops, such as marijuana, including changing patterns in location and techniques for identification, investigation, and destruction;

(4) the problems of drug and alcohol abuse in rural communities, including law enforcement and criminal justice response and access to treatment services;

(5) the problems of family violence and child abuse, including law enforcement and criminal justice response and access to services for victims of such crimes;

(6) the problems of juvenile delinquency and vandalism as they affect rural communities;

(7) the access of law enforcement and criminal justice professionals in rural communities to the services of crime laboratories, the Automated Fingerprint Identification System, and other technological support;

(8) the access of law enforcement and criminal justice professionals in rural communities to professional training and development and the identification of models for the delivery of such training; and

(9) the special problems of drug abuse in jurisdictions with populations of 50,000 or less.

(b) FINAL REPORT.—The Director shall submit the national assessment to the President and Congress not later than 12 months after the date of enactment of this Act.

(c) DISSEMINATION OF REPORT.—Based on the results of the national assessment and analysis of successful and promising strategies in these areas, the Director shall disseminate the results not only through reports, publications, and clearinghouse services, but also through programs of training and technical assistance, designed to address the realities and challenges of rural law enforcement.

**SEC. 974. PILOT PROGRAMS.**

(a) IN GENERAL.—The Director may make grants to local law enforcement agencies for pilot programs and field tests of particularly promising strategies and models, which could then serve as the basis for demonstration and education programs under the Bureau of Justice Assistance Discretionary Grant Program.

(b) TYPES OF PROGRAMS.—Pilot programs funded under this section may include—

(1) programs to develop and demonstrate new or improved approaches or techniques for rural criminal justice systems;

(2) programs of training and technical assistance to meet the needs of rural law enforcement and criminal justice professionals including safety;

(3) a rural initiative to study and improve the response to traffic safety problems and drug interdiction;

(4) an ongoing program to assist law enforcement professionals in dealing with the hazards of clandestine drug laboratories;

(5) victim assistance information to assist departments in beginning and maintaining strong programs to assist victims and witnesses of crime;

(6) emergency preparedness information for community groups concerned about disaster preparedness on the family and community level; and

(7) a program targeted at communities of less than 50,000 stressing the need for production of public safety through extensive partnership efforts between law enforcement, other local government agencies, businesses, schools, community and social organizations, and citizens.

**SEC. 975. FUNDING.**

There are authorized to be appropriated $5,000,000 to carry out the national assessment and pilot programs required by this subtitle.

### Subtitle F—National Commission to Support Law Enforcement

**SEC. 981. SHORT TITLE.**

This subtitle may be cited as the "National Commission to Support Law Enforcement Act.".

**SEC. 982. FINDINGS.**

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

**SEC. 983. ESTABLISHMENT OF COMMISSION.**

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this subtitle as the "Commission").

**SEC. 984. DUTIES.**

(a) IN GENERAL.—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

**SEC. 985. MEMBERSHIP.**

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from among national law enforcement officers, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) One shall be appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate.

(B) One shall be appointed by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

**SEC. 986. EXPERTS AND CONSULTANTS.**

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this subtitle.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

**SEC. 987. POWERS OF COMMISSION.**

(a) HEARINGS.—The Commission may, for purposes of this subtitle, hold hearings, sit and act at the time and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this subtitle. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

**SEC. 988. REPORT.**

Not later than the expiration of the 18-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

**SEC. 989. TERMINATION.**

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 988.

**SEC. 989A. REPEALS.**

Title XXXIV of the Crime Control Act of 1990 (42 U.S.C. 3721 note) and section 211(B) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (42 U.S.C. 3721 note; 104 Stat. 2122) are repealed.

### Subtitle G—Other Provisions

**SEC. 991. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.**

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, aggressive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1992, 1993, and 1994.

**SEC. 992. AUTHORIZATION OF APPROPRIATIONS FOR BUREAU OF JUSTICE ASSISTANCE DISCRETIONARY GRANTS.**

Section 1001(a)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(6)), as amended by section 1054, is amended to read as follows:

"(7) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out chapter B of subpart 2 of part E of this title.".

**SEC. 993. LAW ENFORCEMENT FAMILY SUPPORT.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 962(a), is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as 2001; and

(3) by inserting after part R the following new part:

**"PART S—FAMILY SUPPORT**

**"SEC. 1901. DUTIES OF DIRECTOR.**

"The Director shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Bureau and by grant recipients.

**"SEC. 1902. GENERAL AUTHORIZATION.**

"The Director is authorized to make grants to States and local law enforcement agencies to provide family support services to law enforcement personnel.

**"SEC. 1903. USES OF FUNDS.**

"(a) IN GENERAL.—A State or local law enforcement agency that receives a grant under this part shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency that receives funds under this part shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency that receives funds under this part may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

**"SEC. 1904. APPLICATIONS.**

"A law enforcement agency desiring to receive a grant under this part shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Director or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this part.

**"SEC. 1905. AWARD OF GRANTS; LIMITATION.**

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Director shall as-

sure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Director may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency for a period not to exceed 5 years. In any application from a State or local law enforcement agency for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Director shall review the progress made toward meeting the objectives of the program. The Director may refuse to award a grant if the Director finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 10 percent of grant funds received by a State or a local law enforcement agency may be used for administrative purposes.

**"SEC. 1906. DISCRETIONARY RESEARCH GRANTS.**

"The Director may reserve 10 percent of funds to award research grants to a State or local law enforcement agency to study issues of importance in the law enforcement field as determined by the Director.

**"SEC. 1907. REPORTS.**

"(a) REPORT FROM GRANT RECIPIENTS.—A State or local law enforcement agency that receives a grant under this part shall submit to the Director an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"(b) REPORT FROM DIRECTOR.—(1) The Director shall submit to the Congress a report not later than March 31 of each fiscal year.

"(2) A report under paragraph (1) shall contain—

"(A) a description of the types of projects developed or improved through funds received under this part;

"(B) a description of exemplary projects and activities developed;

"(C) a designation of the family relationship to the law enforcement personnel of individuals served; and

"(D) a statement of the number of individuals served in each location and throughout the country.

**"SEC. 1908. DEFINITIONS.**

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 962(b), is amended by striking the matter relating to part S and inserting the following:

"PART S—FAMILY SUPPORT

"Sec. 1901. Duties of director.
"Sec. 1902. General authorization.
"Sec. 1903. Uses of funds.
"Sec. 1904. Applications.
"Sec. 1905. Award of grants; limitation.
"Sec. 1906. Discretionary research grants.
"Sec. 1907. Reports.
"Sec. 1908. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALS

"Sec. 2001. Continuation of rules, authorities, and privileges.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 962(c), is amended by adding at the end the following new paragraph:

"(13) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out part S, of which not more than 20 percent may be used to accomplish the duties of the Director under section 1901, including administrative costs, research, and training programs.".

**SEC. 994. MANDATORY LITERACY PROGRAM.**

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration or systemwide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy and the names and types of tests that were used to determine disabilities affecting functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a systemwide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies that elect to establish a program described in subsection (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) DEFINITION.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General may make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section, the term "life skills" includes self-development, communication skills, job and financial skills development, education, interpersonal and family relationships, and stress and anger management.

**SEC. 995. TRAUMA CENTERS AND CRIME-RELATED VIOLENCE.**

(a) AMENDMENT OF PUBLIC HEALTH SERVICE ACT.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by sec-

tion 3 of Public Law 101-590 (104 Stat. 2915), is amended by adding at the end the following new part:

**"PART D—REIMBURSEMENT FOR UNCOMPENSATED TRAUMA CARE**

**"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.**

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence due to crime. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the trauma center demonstrates a significant incidence of uncompensated care debt as a result of treating a population of patients that has been served by the center for the period specified in subparagraph (B) for trauma, including a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center involved is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c).

**"SEC. 1242. PRIORITIES IN MAKING GRANTS.**

"In making grants under section 1241(a), the Secretary shall give priority to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 5-year period specified in section 1241(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

**"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.**

"The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the two fiscal years immediately succeeding the fiscal year for which a grant is received;

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A); and

"(3) the center will establish a trauma registry not later than 6 months from the date on which the grant is received that shall include such information as the Secretary shall require.

**"SEC. 1244. GENERAL PROVISIONS.**

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(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 part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(c) LIMITATION ON AMOUNT OF GRANT.—The Secretary may not make a grant to any single trauma center in an amount that exceeds $2,000,000 in any fiscal year.

"(d) CONSULTATION.—Grants shall be awarded under section 1241(a) only after the Secretary has consulted with the state official responsible for emergency medical services, or another appropriate state official, in the State of the prospective grantee.

**"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.**

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

(b) TECHNICAL AMENDMENTS.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

**SEC. 996. STUDY AND ASSESSMENT OF ALCOHOL USE AND TREATMENT.**

The Director of the National Institute of Justice shall—

(1) conduct a study to compare the recidivism rates of individuals under the influence of alcohol or alcohol in combination with other drugs at the time of their offense—

(A) who participated in a residential treatment program while in the custody of the State; and

(B) who did not participate in a residential treatment program while in the custody of the State; and

(2) conduct a nationwide assessment regarding the use of alcohol and alcohol in combination with other drugs as a factor in violent, domestic, and general criminal activity.

**SEC. 997. NOTICE OF RELEASE OF PRISONERS.**

Section 4042 of title 18, United States Code, is amended—

(1) by striking "The Bureau" and inserting "(a) IN GENERAL.—The Bureau";

(2) by striking "This section" and inserting "(c) Application of Section.—This section";

(3) in paragraph (4) of subsection (a), as designated by paragraph (1)—

(A) by striking "Provide" and inserting "provide"; and

(B) by striking the period at the end and inserting "; and";

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1), the following new paragraph:

"(5) provide notice of release of prisoners in accordance with subsection (b)."; and

(5) by inserting after subsection (a), as designated by paragraph (1), the following new subsection:

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) Except in the case of a prisoner being protected under chapter 224, the Bureau of Prisons shall, at least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, cause written notice of the release or change of residence to be made to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime (as defined in section 924(c)(2)); or

"(B) a crime of violence (as defined in section 924(c)(3)).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

(b) APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.—In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

**TITLE X—ILLEGAL DRUGS**

**Subtitle A—Drug Testing**

**SEC. 1001. DRUG TESTING OF FEDERAL OFFENDERS ON POST-CONVICTION RELEASE.**

(a) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 3608. Drug testing of Federal offenders on post-conviction release**

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4).".

(2) The chapter analysis for chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3608. Drug testing of Federal offenders on post-conviction release.".

(b) DRUG TESTING CONDITION FOR PROBATION.—

(1) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(A) in paragraph (2) by striking "and";

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of the controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. In addition, the Court may decline to impose this condition for any individual defendant, if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant. A defendant who tests positive may be detained pending verification of a drug test result.".

(2) DRUG TESTING FOR SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4), the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court), for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(3) DRUG TESTING IN CONNECTION WITH PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4), the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(c) REVOCATION OF PAROLE.—Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

**SEC. 1002. DRUG TESTING IN STATE CRIMINAL JUSTICE SYSTEMS.**

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751 et seq.) is amended by adding at the end the following new section:

"DRUG TESTING PROGRAMS

"SEC. 523. (a) PROGRAM REQUIRED.—It is a condition of eligibility for funding under this part that a State formulate and implement a drug testing program for targeted classes of persons confined in, or subject to supervision in, the criminal justice systems of the State. Such a program must meet criteria specified in regulations promulgated by the Attorney General under subsection (b). Notwithstanding the preceding sentence, no State shall be required to expend an amount for drug testing pursuant to this section in excess of 10 percent of the minimum amount that the State is eligible to receive under subpart 1.

"(b) REGULATIONS.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall promulgate regulations to implement this section to ensure reliability and accuracy of drug testing programs. The regulations shall include such other guidelines for drug testing programs in State criminal justice systems as the Attorney General determines are appropriate, and shall include provisions by which a State may apply to the Attorney General for a waiver of the requirements imposed by this section, on grounds that compliance would impose excessive financial or other burdens on such State or would otherwise be impracticable or contrary to State policy.

"(c) EFFECTIVE DATE.—This section shall take effect with respect to any State at a time specified by the Attorney General, but not earlier than the promulgation of the regulations required under subsection (b).".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 522 the following new item:

"Sec. 523. Drug testing programs.".

**Subtitle B—Precursor Chemicals**

**SEC. 1011. SHORT TITLE.**

This subtitle may be cited as "The Chemical Control and Environmental Responsibility Act of 1992".

**SEC. 1012. DEFINITION AMENDMENTS.**

(a) REFERENCES TO LISTED CHEMICALS IN SECTION 102.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and inserting "list I chemical" and by striking "critical to the creation" and inserting "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting "list II chemical" and by striking "that is used as a solvent, reagent or catalyst" and inserting ", which is not a list I chemical, that is used"; and

(4) in paragraph (40) by striking the phrase "listed precursor chemical or a listed essential chemical" and inserting "list I chemical or a list II chemical" both places it appears.

(b) REFERENCES TO LISTED CHEMICALS IN SECTION 310.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)(A) by striking "precursor chemical" and inserting "list I chemical";

(2) in subsection (a)(1)(B) by striking "an essential chemical" and inserting "a list II chemical"; and

(3) in subsection (c)(2)(D) by striking "precursor chemical" and inserting "chemical control".

(c) OTHER AMENDMENTS TO SECTION 102.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine";

(3) in paragraph (39)(A) by striking "or exportation" and inserting ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semicolon and inserting "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may by regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding at the end the following new paragraph:

"(42) The terms 'broker' and 'trader' mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing together a buyer and a seller, or a buyer or seller and a transporter.".

**SEC. 1013. REGISTRATION REQUIREMENT.**

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b) by inserting "or list I chemicals" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemicals" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES ACT.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that the registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels.

"(2) Compliance with applicable Federal, State and local law.

"(3) Prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law.

"(4) Past experience in the manufacture and distribution of chemicals.

"(5) Such other factors as may be relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or a list I chemical" after "controlled substance" each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by striking "(c) The" and inserting "(c)(1) The"; and

(B) by adding at the end the following new paragraph:

"(2) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in section 303(h) shall be considered.";

(2) in subsection (d)—

(A) in paragraph (3) by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e) by striking "and 307" and inserting ", 827, and 310"; and

(4) in subsections (f), (g), and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) in the case of a person who is a regulated person, to distribute, import, or export a list I chemical without the registration required by this title.".

**SEC. 1014. REPORTING OF LISTED CHEMICAL MANUFACTURING.**

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by striking "(b) Each regulated person" and inserting "(b)(1) Each regulated person";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person.".

**SEC. 1015. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.**

(a) NOTIFICATION, REPORTING, RECORDKEEPING, AND OTHER REQUIREMENTS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and by title II.".

(b) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) PENALTY FOR IMPORTATION OR EXPORTATION.—Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title;

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 10 years, or both.".

**SEC. 1016. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.**

(a) ADVANCE NOTICE.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 1015(a), is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day advance notice requirement of subsection (a) apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as regular customers if the Attorney General finds that the action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day advance notice requirement for exports of specific listed chemicals to specified countries if the Attorney General determines that the advance notice is not required for effective chemical control. If the advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day advance notice requirement for the importation of specific listed chemicals if the Attorney General determines that the requirement is not necessary for effective chemical control. If the advance notice requirement is waived, importers of such listed chemicals shall be required to submit either reports of individual importations or periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 1015(b), is amended by—

(1) striking "or" at the end of paragraph (3);

(2) striking the comma at the end of paragraph (4) and inserting "; or"; and

(3) by adding after paragraph (4) the following new paragraph:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 1018(d) (1) or (2) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported,".

**SEC. 1017. AMENDMENTS TO LIST I.**

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended:

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P), (Q), (R), (S), (T), (V), (X), and (Y) as subparagraphs (O), (P), (Q), (R), (S), (T), (U), and (X), respectively;

(3) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane."; and

(4) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)".

**SEC. 1018. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.**

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)(1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer";

(2) in subsection (b)(2)—

(A) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(B) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

**SEC. 1019. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.**

Section 510(a)(2) of the Controlled Substances Act (21 U.S.C. 880(a)(2)) is amended to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where a person registered under section 303 (or exempt from such registration under section 302(d) or by regulation of the Attorney General) or a regulated person may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such an activity are maintained.".

**SEC. 1020. THRESHOLD AMOUNTS.**

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 1012, is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount of multiple transactions".

**SEC. 1021. MANAGEMENT OF LISTED CHEMICALS.**

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

"(b) PENALTY.—(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, or less than 10 years in the case of a willful violation.

"(4) The court may order that all or a portion of the earnings from work performed by a convicted offender in prison be withheld for payment of costs assessed under paragraph (2).

"(c) SHARING OF FORFEITED ASSETS.—The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) AMENDMENT OF TITLE 11, UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) for costs assessed under section 311(b) of the Controlled Substances Act.".

**SEC. 1022. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.**

Part B of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.) is amended by adding at the end the following new section:

**"SEC. 428. DISCLOSURE OF INFORMATION TO THE ATTORNEY GENERAL.**

"Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 424(b)) under this part or section 1921 of the Social Security Act (42 U.S.C. 1396r-2) shall be provided to the Attorney General. The Secretary shall—

"(1) transmit to the Attorney General such information as the Attorney General may designate or request to assist the Drug Enforcement Administration in the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) and other laws enforced by the Drug Enforcement Administration; and

"(2) transmit such information related to health care providers as the Attorney General may designate or request to assist the Federal Bureau of Investigation in the enforcement of title 18, the Act entitled 'An Act to regulate the practice of pharmacy and the sale of poison in the consular districts of the United States in China', approved March 3, 1915 (21 U.S.C. 201 et seq.), and chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).".

**SEC. 1023. REGULATIONS AND EFFECTIVE DATE.**

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—The amendments made by this subtitle shall become effective on the date that is 120 days after the date of enactment of this Act.

**Subtitle C—Interdiction**

**SEC. 1031. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.**

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 2237. Order to land or bring to**

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'aircraft subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States;

"(2) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state;

"(3) the term 'Federal law enforcement officer' has the meaning stated in section 115; and

"(4) the terms 'vessel of the United States' and 'vessel subject to the jurisdiction of the United States' have the meanings stated in the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

"(b) FAILURE TO LAND AIRCRAFT.—(1) It is unlawful for the pilot, operator, or person in charge of an aircraft that has crossed the border of the United States or an aircraft subject to the jurisdiction of the United States that is being operated outside the United States to refuse to obey the order to land made by an authorized Federal law enforcement officer who is enforcing—

"(A) the laws of the United States relating to controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(B) chapter 27 or section 1956 or 1957 of this title.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, after consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated by Federal law enforcement officers to the pilot, operator, or person in charge of an aircraft.

"(c) FAILURE TO BRING VESSEL TO.—It is unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring the vessel to on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(d) RULE OF CONSTRUCTION.—This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or any other law that the Customs Service enforces or administers or the authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(e) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objection by a foreign nation to the enforcement by the United States of its laws under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by

certification of the Secretary of State or the Secretary's designee.

"(f) PENALTY.—A person who intentionally violates this section shall be fined under this title, imprisoned not more than 3 years, or both.

"(g) FORFEITURE.—Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred or alleged to have been incurred under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or aircraft that is used in a violation of this section is also liable in rem for any fine or civil penalty imposed under this section.

"(h) DELEGATION OF AUTHORITY.—The Secretary of the Treasury and the Secretary of Transportation may delegate Federal law enforcement officer seizure and forfeiture responsibilities under this section to other law enforcement officers.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

"2237. Order to land or to bring to.".

**SEC. 1032. FAA REVOCATION AUTHORITY.**

(a) IMMEDIATE REVOCATION OF REGISTRATION.—Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end the following new paragraph:

"(3)(A) The registration of the aircraft shall be immediately revoked upon the failure of the operator of the aircraft to follow the order of a Federal law enforcement officer to land an aircraft as provided in section 2237 of title 18, United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for the aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause—

"(i) why the registration was not revoked, as a matter of law, by operation of subparagraph (A); or

"(ii) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subparagraph (A), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subparagraph (A).".

(b) REVOCATION OF AIRMAN CERTIFICATE.—Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429(e)) is amended by adding at the end the following new subsection:

"(d)(1) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that—

"(A) the person, while acting as the operator of an aircraft, failed to follow the order of a law enforcement officer to land the aircraft as provided in section 2237 of title 18, United States Code; and

"(B) the person knew or had reason to know that the person had been ordered to land the aircraft.

"(2) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land, paragraph (1) shall not apply.

"(3) Subsection (c)(3) shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.".

**SEC. 1033. COAST GUARD AIR INTERDICTION AUTHORITY.**

(a) AIR INTERDICTION AUTHORITY.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

**"§ 96. Air interdiction authority**

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States over the high seas and waters over which the United States has jurisdiction. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 5 of title 14, United States Code, is amended by adding at the end the following new item:

"96. Air interdiction authority.".

**SEC. 1034. COAST GUARD CIVIL PENALTY PROVISIONS.**

(a) CIVIL PENALTY.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

**"§ 667. Civil penalty for failure to comply with a lawful boarding or order to land**

"(a) INTENTIONAL FAILURE TO COMPLY.—The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) NEGLIGENT FAILURE TO COMPLY.—The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) LIABILITY IN REM.—A vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of this title is liable in rem for a civil penalty assessed under this section.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"667. Civil penalty for failure to comply with a lawful boarding or order to land.".

**SEC. 1035. CUSTOMS ORDERS.**

Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end the following new subsection:

"(i) As used in this section, the term 'authorized place' includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches; and

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act or regulations issued thereunder or section 2237 of title 18, United States Code, any location outside the United States, including a foreign country location at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

**SEC. 1036. CUSTOMS CIVIL PENALTY PROVISIONS.**

The Tariff Act of 1930 (19 U.S.C. 1202 et seq.) is amended by inserting after section 590 the following new section:

**"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER TO LAND OR TO BRING TO.**

"(a) INTENTIONAL FAILURE TO COMPLY.—The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or section 2237 of title 18, United States Code, is subject to a civil penalty of not more than $25,000, which may be assessed by the appropriate customs officer.

"(b) NEGLIGENT FAILURE TO COMPLY.—The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or section 2237 of title 18, United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

**SEC. 1037. INFORMATION EXCHANGE AND ASSISTANCE.**

Section 142 of title 14, United States Code, is amended—

(1) by inserting "(a) EXCHANGE OF INFORMATION.—" before "The";

(2) in subsection (a), as designated by paragraph (1)—

(A) by inserting "and international organizations" after "with foreign governments"; and

(B) by inserting "maritime law enforcement, maritime environmental protection, and" after "matters dealing with"; and

(3) by adding at the end the following new subsection:

"(b) USE OF PERSONNEL AND FACILITIES.—The Coast Guard may, when so requested by the Secretary of State, use its personnel and facilities to assist any foreign government or international organization to perform any activity for which such personnel and facilities are especially qualified.".

**SEC. 1038. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.**

(a) IN GENERAL.—Section 149 of title 14, United States Code is amended to read as follows:

**"§ 149. Assistance to foreign governments and international organizations**

"(a) IN GENERAL.—The President may, upon application from the foreign governments or international organizations concerned, and whenever in the President's discretion the public interest renders such a course advisable, utilize officers and enlisted members of the Coast Guard to assist foreign governments or international organizations in matters concerning which the Coast Guard may be of assistance.

"(b) DETAIL OF PERSONNEL.—(1) Utilization of members may include the detail of such members.

"(2) Arrangements may be made by the Secretary with countries to which such officers and enlisted members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions.

"(3) While detailed under this subsection, officers and enlisted members of the Coast Guard shall receive the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for all service while so detailed, as if serving with the Coast Guard.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 7 of title 14, United States Code, is amended by amending the item relating to section 149 to read as follows:

"149. Assistance to foreign governments and international organizations.".

**SEC. 1039. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.**

Section 481(c)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c)(4)) is amended by inserting ", and archipelagic waters" after "territorial sea".

### Subtitle D—Rural Drug Crime

**SEC. 1051. RURAL DRUG ENFORCEMENT TASK FORCES.**

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, may establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

**SEC. 1052. CROSS-DESIGNATION OF FEDERAL OFFICERS.**

The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1051(b)(5) with jurisdiction to enforce the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this subtitle.

**SEC. 1053. RURAL DRUG ENFORCEMENT TRAINING.**

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 in each of the fiscal years 1992, 1993, and 1994 to carry out subsection (a).

**SEC. 1054. AUTHORIZATION OF APPROPRIATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating paragraph (6), relating to part N of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as paragraph (8) and removing it to follow paragraph (7), relating to part M of that title I; and

(2) by redesignating paragraph (7), relating to part O of that title, as paragraph (9) and amending the paragraph to read as follows:

"(9) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O.".

(b) AMENDMENT OF BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(a)(2)(A)) is amended by striking "$100,000" and inserting "$250,000".

**SEC. 1055. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.**

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

**"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.**

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section, a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section, the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetrpolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period of not to exceed 3 years, except that the Director may establish a procedure for the renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

**SEC. 1056. CLEARINGHOUSE PROGRAM.**

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

### Subtitle E—Grant Programs

**SEC. 1061. DRUG EMERGENCY AREAS.**

Section 1005(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(c)) is amended by striking subsection (c) and inserting the following new subsection:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) If a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare the State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or by any other law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, to protect property and public health, and to promote safety.

"(2) PROCEDURE FOR DECLARATION.—(A) A request for a declaration by the President designating an area to be a drug emergency area shall be made in writing by the Governor of a State or the chief executive officer of a local government and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) A request under subparagraph (A) shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that Federal assistance is necessary for an effective response to save lives, protect property and public health, and promote safety.

"(C) The President shall not limit declarations under this subsection to highly populated centers of drug trafficking, drug use or drug-related violence, but shall consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor or chief executive officer shall—

"(i) take appropriate responsive action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (quantitative goals, where possible) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review a request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving the application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President may make grants to State or local governments of up to $50,000,000 in the aggregate for any single major drug-related emergency.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year, except that the President, on application of a Governor of a State or chief executive officer of a local government, and, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) A State or local government that receives Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of the assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1992, 1993, 1994, 1995, and 1996 $300,000,000 to carry out this subsection.".

**SEC. 1062. DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION.**

(a) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new subpart:

**"Subpart 4—Community Coalitions on Substance Abuse**

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that includes—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such an application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan described in subsection (b)(5) and to report on the plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—(1) Each coalition that receives Federal funds under this section shall submit an annual report to the Attorney General and the appropriate State agency that evaluates the effectiveness of the plan described in subsection (b)(5) and contains such additional information as the Attorney General or the appropriate State agency may prescribe.

"(2)(A) The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

"(B) The review described in subparagraph (A) shall—

"(i) evaluate the grant program established in this section to determine its effectiveness;

"(ii) implement necessary changes to the program that can be done by the Attorney General; and

"(iii) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

carry out this section $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new item:

"Subpart 4—Community Coalition on Substance Abuse".

**SEC. 1063. GRANTS FOR SUBSTANCE ABUSE TREATMENT.**

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 993(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

**"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS**

**"SEC. 2001. GRANT AUTHORIZATION.**

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities.

**"SEC. 2002. STATE APPLICATIONS.**

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency.

"(b) DRUG TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the drug treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the prison treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, half-way house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the drug treatment program.

"(3) To qualify as an aftercare program, the head of the drug treatment program, in conjunction with State and local authorities and organizations involved in drug treatment, shall assist in placement of drug treatment program participants with appropriate community drug treatment facilities when such individuals leave prison at the end of a sentence or on parole.

"(d) STATE OFFICE.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under section 2002; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

**"SEC. 2003. REVIEW OF STATE APPLICATIONS.**

"(a) IN GENERAL.—The Bureau shall make a grant under section 2001 to carry out the projects described in the application submitted under section 2002 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 2002 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

**"SEC. 2004. ALLOCATION AND DISTRIBUTION OF FUNDS.**

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2002 for the fiscal year for which the projects receive assistance under this part.

**"SEC. 2005. EVALUATION.**

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 993(b), is amended by striking the matter relating to part T and inserting the following:

"PART T—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2001. Grant authorization.
"Sec. 2002. State applications.
"Sec. 2003. Review of State applications.
"Sec. 2004. Allocation and distribution of funds.
"Sec. 2005. Evaluation.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 523(c), is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(25) The term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 993(c), is amended by adding at the end the following new paragraph:

"(14) There are authorized to be appropriated $100,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the projects under part T.".

**SEC. 1064. DRUG TESTING UPON ARREST.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1063(a), is amended—

(1) by redesignating part U as part V;

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following new part:

**"PART U—GRANTS FOR DRUG TESTING UPON ARREST**

**"SEC. 2101. GRANT AUTHORIZATION.**

"The Director of the Bureau of Justice Assistance is authorized to make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing, implementing, or continuing a drug testing project when individuals are arrested and during the pretrial period.

**"SEC. 2102. STATE APPLICATIONS.**

"(a) GENERAL REQUIREMENTS.—To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) MANDATORY ASSURANCES.—To be eligible to receive funds under this part, a State must agree to develop or maintain programs of urinalysis or similar drug testing of individuals upon arrest and on a regular basis pending trial for the purpose of making pretrial detention decisions.

"(c) CENTRAL OFFICE.—The office designated under section 507 of this title (42 U.S.C. 3757)—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

**"SEC. 2103. LOCAL APPLICATIONS.**

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 2102(c).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 90 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested in the application.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 2101 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 90 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 90-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

**"SEC. 2104. ALLOCATION AND DISTRIBUTION OF FUNDS.**

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the number of individuals arrested in the State bears to the number of individuals arrested in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State the portion of such funds that bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified in the State's application.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for a fiscal year will not be used by the State or that a State is not eligible to receive funds under section 2101, the Director shall award the funds to units of local government in the State, giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2102 for the fiscal year for which the projects receive assistance under this part.

"(d) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

**"SEC. 2105. REPORT.**

"A State or unit of local government that receives funds under this part shall submit to the Director a report in March of each fiscal year in which funds are received under this part regarding the effectiveness of the drug testing project.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1063(b), is amended by striking the matter relating to part U and inserting the following:

"PART U—DRUG TESTING FOR INDIVIDUALS ARRESTED

"Sec. 2101. Grant authorization.
"Sec. 2102. State applications.
"Sec. 2103. Local applications.
"Sec. 2104. Allocation and distribution of funds.
"Sec. 2105. Report.

"PART V—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1063(d), is amended by adding at the end the following new paragraph:

"(15) There are authorized to be appropriated $100,000,000 for the fiscal years 1992, 1993, and 1994 to carry out projects under part U.".

## Subtitle F—Other Provisions

**SEC. 1071. STRENGTHENED FEDERAL PENALTIES RELATING TO CRYSTALLINE METHAMPHETAMINE.**

(a) LARGE AMOUNT.—The first sentence of section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—The first sentence of section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) by striking "or" at the end of clause (vii);

(2) by inserting "or" at the end of clause (viii); and

(3) by inserting after clause (viii) the following new clause:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is at least 80 percent pure and crystalline in form.".

**SEC. 1072. ADVERTISEMENTS OF CONTROLLED SUBSTANCES.**

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance, but does not include material that—

"(1) merely advocates the use of a similar material or advocates a position or practice; and

"(2) does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.".

**SEC. 1073. INCREASED PENALTIES FOR DISTRIBUTION OF CONTROLLED SUBSTANCES AT TRUCK STOPS AND REST AREAS.**

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) punishable—

"(1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 1 year.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of—

"(A) a term of imprisonment of not less than 3 years and not more than life imprisonment; or

"(B) a term of imprisonment of up to 3 times that authorized by section 401(b) for a first offense, or a fine up to 3 times that authorized by section 401(b) for a first offense, or both; and

"(2) at least 3 times any term of supervised release authorized by section 401(b) for a first offense.

"(c) Probation shall not be granted in the case of a sentence imposed under subsection (b).

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning stated in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) with the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2716(6))) operating in commerce (as defined in section 12019(3) of that Act (49 U.S.C. App. 2716(3)) and located adjacent to or within 2,500 feet of a highway on the National System of Interstate and Defense Highways or the Federal-aid primary system.".

(b) TECHNICAL AMENDMENTS.—(1) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(2) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by inserting after the item relating to section 408 the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING COMMISSION GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (a), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) 2 levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(d) IMPLEMENTATION OF SUBSECTION (c).—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (c) so as to achieve a comparable result.

(e) OFFENSES THAT COULD BE SUBJECT TO MULTIPLE ENHANCEMENTS.—The guidelines referred to in subsection (d), as promulgated or amended under that subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to that subsection is subject to not more than 1 such enhancement.

**SEC. 1074. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.**

Section 1791(c) of title 18, United States Code, is amended—

(1) in subsection (c) by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A) by inserting "or a controlled substance in Schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C)" after "a firearm or destructive device";

(3) in subsection (d)(1)(B) by inserting "marijuana or a controlled substance in Schedule III, other than a controlled substance referred to in subparagraph (C)," before "ammunition,";

(4) in subsection (d)(1)(C) by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,"; and

(5) in subsection (d)(1)(D) by inserting "(A), (B), or" before "(C)".

**SEC. 1075. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.**

(a) HEADING FOR SECTION 3.—The Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended by inserting the following new heading for section 3:

"SEIZURE AND FORFEITURE OF VESSELS, VEHICLES AND OTHER CONVEYANCES".

(b) AMENDMENT OF SECTION 3.—Section 3 of the Anti-Smuggling Act (19 U.S.C. 1701 et seq.) is amended—

(1) by striking "(a) Whenever" and inserting "(a) VESSELS, VEHICLES, AND OTHER CONVEYANCES SUBJECT TO SEIZURE AND FORFEITURE.—Whenever";

(2) by striking "(b) Every" and inserting "(b) VESSELS, VEHICLES AND OTHER CONVEYANCES, DEFINED.—Every";

(3) in subsections (a) and (b) by inserting ", vehicle, or other conveyance" after "vessel" each place it appears; and

(4) by amending subsection (c) to read as follows:

"(c) ACTS CONSTITUTING PRIMA FACIE EVIDENCE OF VESSEL, VEHICLE, OR OTHER CONVEYANCE ENGAGED IN SMUGGLING.—For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, has been, or is being attempting to be employed in smuggling or to be employed to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, that a vessel has become subject to pursuit under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or is a hovering vessel, or that a vessel fails at any place within the customs waters of the United States or within a customs-enforcement area to display lights as required by law; and

"(2) in the case of a vehicle or other conveyance, that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

**SEC. 1076. CLOSING OF LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.**

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

**SEC. 1077. UNDERCOVER OPERATIONS—CHURNING.**

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (26 U.S.C. 7608 note) is amended to read as follows:

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and shall cease to apply after December 31, 1994.".

**SEC. 1078. DRUG PARAPHERNALIA AMENDMENT.**

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding at the end the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

**SEC. 1079. CONFORMING AMENDMENTS CONCERNING MARIJUANA.**

(a) LESS THAN 50 KILOGRAMS.—(1) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by striking "less than 50 kilograms of marihuana" and inserting "less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana".

(2) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "with respect to less than 50 kilograms of marihuana" and inserting "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana".

(b) 100 OR MORE PLANTS.—Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking "except in the case of 100 or more marihuana plants" and inserting "except in the case of 50 or more marihuana plants".

**SEC. 1080. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.**

Subsections (d) and (f) of section 5038 of title 18, United States Code, are amended by striking "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b)(1), (2), and (3)).".

**SEC. 1081. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER RICO.**

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

**SEC. 1082. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.**

(a) SECTION 401(b)(1)(B), (C), AND (D) OF THE CONTROLLED SUBSTANCES ACT.—Subparagraphs (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B), (C), and (D)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(b) SECTION 1010(b)(1), (2), AND (3) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1), (2), and (3) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1), (2), and (3)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(c) SECTION 1012(b) OF THE CONTROLLED IMPORT AND EXPORT ACT.—Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony drug offense have become final".

(d) SECTION 401(b)(1)(A) OF THE CONTROLLED SUBSTANCES ACT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For the purposes of this subparagraph, the term 'felony drug offense' means".

(e) SECTION 102 OF THE CONTROLLED SUBSTANCES ACT.—Section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended by section 1012(c)(7), is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than 1 year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

**SEC. 1083. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.**

(a) SECTION 401(b)(1) OF THE CONTROLLED SUBSTANCES ACT.—Subparagraphs (A) and (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.".

(b) SECTION 1010(b) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1) and (2) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) are amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.".

(c) SECTION 419(d) OF THE CONTROLLED SUBSTANCES ACT.—Section 419(d) of the Controlled Substances Act (21 U.S.C. 860(c)), as redesignated by section 501(1), is amended by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(d) SECTION 420(e) OF THE CONTROLLED SUBSTANCES ACT.—Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section.".

**SEC. 1084. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.**

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting "3 years".

**SEC. 1085. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.**

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

**SEC. 1086. LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.**

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by law, a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater sentence is otherwise authorized by law, a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

**SEC. 1087. DRUG PARAPHERNALIA.**

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title, including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

"(2) kits designed for use or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the potency of any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances designed for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips (that is, objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand);

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wired or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

**SEC. 1088. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.**

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding at the end the following new paragraph:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph.

**SEC. 1089. DRUG DISTRIBUTION TO PREGNANT WOMEN.**

Subsections (a) and (b) of section 418 of the Controlled Substances Act (21 U.S.C. 859 (a) and (b)) are amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age".

**SEC. 1090. DRUGGED OR DRUNK DRIVING CHILD PROTECTION.**

(a) APPLICATION OF STATE LAW IN AREAS WITHIN FEDERAL JURISDICTION.—Section 13(b) of title 18, United States Code, is amended—

(1) by striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, commonwealth, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

(b) COMMON CARRIERS.—Section 342 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following new subsection:

"(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

"(2) For the purposes of paragraph (1), the term 'minor' means a person less than 18 years of age.".

**SEC. 1091. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.**

Section 419 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

**SEC. 1092. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.**

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following new subsection:

"(c) The Attorney General may bring a civil action against any person who violates this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

**SEC. 1093. INCREASED PENALTIES FOR DRUG DEALING IN "DRUG-FREE" ZONES.**

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "one year" and inserting "3 years"; and

(2) in subsection (b) by striking "three years" each place it appears and inserting "5 years".

**SEC. 1094. ANABOLIC STEROIDS PENALTIES.**

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following new subsection:

"(b)(1) Whoever, being a physical trainer or adviser to a person, attempts to persuade or induce the person to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, imprisoned not more than 2 years (or if the person attempted to be persuaded or induced was less than 18 years of age at the time of the offense, 5 years), or both.

"(2) As used in this subsection, the term 'physical trainer or adviser' means a professional or amateur coach, manager, trainer, instructor, or other such person who provides athletic or physical instruction, training, advice, assistance, or any other such service to any person.".

**SEC. 1095. PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISIONS OF LAW THAT CONDITION PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THE STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.**

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of section 333 of Public Law 101-516 (104 Stat. 2184) and section 104(a)(3) of title 23, United States Code, which shall notify the Governors and State Representatives of the requirements of those sections.

**SEC. 1096. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.**

Section 5122(c) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(c)) is amended by inserting "or local governments with the concurrence of local educational agencies" after "for grants to local educational agencies".

**SEC. 1097. MISUSE OF THE WORDS "DRUG ENFORCEMENT ADMINISTRATION" OR THE INITIALS "DEA".**

Section 709 of title 18, United States Code, is amended by inserting the following new paragraph before the paragraph beginning "Shall be punished":

"Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration,".

## TITLE XI—PUBLIC CORRUPTION

**SEC. 1101. SHORT TITLE.**

This title may be cited as the "Anti-Corruption Act of 1992".

**SEC. 1102. PUBLIC CORRUPTION.**

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 226. Public corruption**

"(a) STATE AND LOCAL GOVERNMENT.—

"(1) HONEST SERVICES.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of the State or political subdivision shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) FAIR AND IMPARTIAL ELECTIONS.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(A) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(B) through paying or offering to pay any person for voting;

"(C) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(D) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title, imprisoned not more than 10 years, or both.

"(3) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in paragraphs (1) and (2) are that—

"(A) for the purpose of executing or concealing a scheme or artifice described in paragraph (1) or (2) or attempting to do so, a person—

"(i) places in any post office or authorized depository for mail matter, any matter or thing to be sent or delivered by the Postal Service, or takes or receives therefrom any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(ii) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(iii) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(iv) uses or causes the use of any facility of interstate or foreign commerce;

"(B) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed affect, interstate or foreign commerce; or

"(C) in the case of an offense described in paragraph (2), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have any authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(b) FEDERAL GOVERNMENT.—Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or a person who has been selected to be a public official shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) OFFENSE BY AN OFFICIAL AGAINST AN EMPLOYEE OR OFFICIAL.—

"(1) CRIMINAL OFFENSE.—Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or of a State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal a scheme or artifice described in subsection (a) or (b), shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) CIVIL ACTION.—(A) Any employee or official of the United States or of a State or political subdivision of a State who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against because of lawful acts done by the employee or official as a result of a violation of this section or because of actions by the employee on behalf of himself or herself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action and obtain all relief necessary to make the employee or official whole, including—

"(i) reinstatement with the same seniority status that the employee or official would have had but for the violation;

"(ii) 3 times the amount of backpay;

"(iii) interest on the backpay; and

"(iv) compensation for any special damages sustained as a result of the violation, including reasonable litigation costs and reasonable attorney's fees.

"(B) An employee or official shall not be afforded relief under subparagraph (A) if the employee or official participated in the violation of this section with respect to which relief is sought.

"(C)(i) A civil action or proceeding authorized by this paragraph shall be stayed by a court upon certification of an attorney for the Government that prosecution of the action or proceeding may adversely affect the interests of the Government in a pending criminal investigation or proceeding.

"(ii) The attorney for the Government shall promptly notify the court when a stay may be lifted without such adverse effects.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) any person who has been nominated, appointed, or selected to be an official or who has been officially informed that he or she will be so nominated, appointed, or selected;

"(2) the term 'person acting or pretending to act under color of official authority' includes a person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official;

"(3) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201 and also include any person acting or pretending to act under color of official authority;

"(4) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

(b) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"226. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

**SEC. 1103. INTERSTATE COMMERCE.**

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended—

(1) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

**"§ 1343. Fraud by use of facility of interstate commerce".**

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by amending the item relating to section 1343 to read as follows:

"1343. Fraud by use of facility of interstate commerce.".

**SEC. 1104. NARCOTICS-RELATED PUBLIC CORRUPTION.**

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

**"§ 220. Narcotics and public corruption**

"(a) OFFENSE BY PUBLIC OFFICIAL.—A public official who, in a circumstance described in subsection (c), directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State,

shall be guilty of a class B felony.

"(b) OFFENSE BY PERSON OTHER THAN A PUBLIC OFFICIAL.—A person who, in a circumstance described in subsection (c), directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence the public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence the public official to do or to omit to do any act in violation of the official's lawful duty,

shall be guilty of a class B felony.

"(c) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in subsections (a) and (b) are that the offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) DEFINITIONS.—As used in this section—

"(1) the terms 'controlled substance' and 'controlled substance analogue' have the meanings stated in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; and

"(D) any person who has been nominated or appointed to a position described in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(3) The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following new item:

"220. Narcotics and public corruption.".

## TITLE XII—GENERAL PROVISIONS

### Subtitle A—Violent Crimes

**SEC. 1201. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.**

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

**SEC. 1202. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.**

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title, imprisoned not more than 1 year, or both, and in all other cases," after "shall"; and

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "10"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "6".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," each place it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

**SEC. 1203. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.**

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "6".

**SEC. 1204. VIOLENT FELONIES AGAINST THE ELDERLY.**

(a) OFFENSE.—Subchapter D of chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 3587. Mandatory sentence for felony against individual of age 65 or over**

"(a) PENALTY.—Upon any plea of guilty or nolo contendere or verdict or finding of guilty of a defendant of a crime of violence under this title, if any victim of the crime is an individual who had attained age 65 on or before the date that the offense was committed, the court shall sentence the defendant to imprisonment—

"(1) for a term of not less than one-half of the maximum term of imprisonment provided for the crime under this title, in the case of a first offense to which this section applies; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for the crime under this title, in the case of a second or subsequent offense to which this section applies.

"(b) TERMS OF PUNISHMENT.—Notwithstanding any other law, with respect to a sentence imposed under subsection (a)—

"(1) the court shall not give the defendant a probationary sentence;

"(2) the sentence shall be served consecutively to any other sentence imposed under this title; and

"(3) the court shall reject any plea agreement that would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) in connection with any charged offense.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'crime of violence' means—

"(A) a felony that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) a felony that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(2) the term 'victim' means an individual against whom an offense has been or is being committed.".

(b) TECHNICAL AMENDMENTS.—(1) The subchapter analysis for subchapter D of chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3587. Mandatory sentence for felony against individual of age 65 or over.".

(2)(A) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(i) by adding at the end of the first paragraph in paragraph (1) (after "record.") the following new sentence: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Code, section 3581."; and

(ii) in paragraph (2)(D) by inserting "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed" after "offense".

(B) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking "*In General.*—The" and inserting "*In General.*—Except as provided in title 18, United States Code, section 3581, the".

**SEC. 1205. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.**

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

**SEC. 1206. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.**

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

**Subtitle B—Civil Rights Offenses**

**SEC. 1211. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.**

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results"; and

(3) by inserting "and may be fined under this title, or both" before the period.

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(4) by inserting "and may be fined under this title, or both" before the period.

(c) FEDERALLY PROTECTED ACTIVITIES.—The first sentence of section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(5) by inserting "and may be fined under this title, or both" before the period.

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) by striking "not more than $1,000," and inserting "under title 18, United States Code,";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(3) by striking "not more than $10,000," and inserting "under title 18, United States Code,";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under title 18, United States Code, or imprisoned"; and

(6) by inserting ", or both" after "life".

### Subtitle C—White Collar and Property Crimes

**SEC. 1221. RECEIPT OF PROCEEDS OF A POSTAL ROBBERY.**

Section 2114 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) ROBBERY.—Whoever"; and

(2) by adding at the end the following new subsection:

"(b) RECEIPT OF PROCEEDS.—Whoever receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

**SEC. 1222. RECEIPT OF PROCEEDS OF EXTORTION OR KIDNAPPING.**

(a) EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

**"§ 880. Receipt of proceeds of extortion**

"Whoever receives, possesses, conceals, or disposes of any money or other property that was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the chapter analysis, by adding at the end the following new item:

"880. Receipt of proceeds of extortion.".

(b) KIDNAPPING.—Section 1202 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) VIOLATION OF SECTION 1201.—Whoever"; and

(2) by adding at the end the following new subsections:

"(b) VIOLATION OF STATE LAW.—Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

"(c) DEFINITION.—For purposes of this section, the term 'State' has the meaning stated in section 245(d).".

**SEC. 1223. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.**

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code, or" before "the Antitrust Civil Process Act".

**SEC. 1224. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.**

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

**SEC. 1225. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.**

Section 2113 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'savings and loan association' means—

"(1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation; and

"(2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.".

**SEC. 1226. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.**

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666.".

**SEC. 1227. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.**

(a) IN GENERAL.—Part VI of title 28 of the United States Code is amended by adding at the end the following:

**"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION**

"Sec.
"3701. Definitions.
"3702. Unlawful sports gambling.
"3703. Injunctions.
"3704. Applicability.

**"§ 3701. Definitions**

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A);

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization, including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5)), that has governmental authority within the territorial boundaries of the United States, including lands described in section 4(4) of such Act (25 U.S.C. 2703(4));

"(3) the term 'person' has the meaning given that term in section 1 of title 1;

"(4) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which 1 or more professional athletes participate; and

"(B) a league or association of persons or governmental entities described in subparagraph (A); and

"(5) 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, Palau, or any territory or possession of the United States.

**"§ 3702. Unlawful sports gambling**

"It is unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact; or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on 1 or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on 1 or more performances of such athletes in such games.

**"§ 3703. Injunctions**

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of the violation.

**"§ 3704. Applicability**

"(a) EXCEPTIONS.—Section 3702 does not apply to—

"(1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity, to the extent that the scheme actually was conducted by that State or other governmental entity prior to August 31, 1990;

"(2) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity if—

"(A) the scheme is authorized by law; and

"(B) a scheme described in section 3702 (other than parimutuel animal racing or jai alai) actually was conducted in that State or other governmental entity during the period beginning September 1, 1989, and ending August 31, 1990, pursuant to the law of the State or other governmental entity; or

"(3) parimutuel animal racing or jai alai.

"(b) INDIAN LANDS.—Except as provided in subsection (a), section 3702 shall apply on lands described in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).".

(b) TECHNICAL AMENDMENTS.—The part analysis for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

**"176. Federal Debt Collection Procedure ..... 3001";**

and

(2) by adding at the end the following new item:

**"178. Professional and Amateur Sports Protection ..... 3701".**

**SEC. 1228. CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.**

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in 1 or more computer programs (including any tape, disk, or other medium embodying such programs); or"; and

(4) in subparagraph (D), as redesignated by paragraph (2)—

(A) by striking "or" after "recording,"; and

(B) by inserting ", or a computer program" before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A) by striking "or" after the semicolon;

(2) in subparagraph (B) by striking "and" at the end and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in 1 or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(c) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) the term 'computer program' has the meaning stated in section 101 of title 17, United States Code.".

**SEC. 1229. FINANCIAL INSTITUTIONS FRAUD.**

(a) FEDERAL DEPOSIT INSURANCE ACT.—Section 19(a)(2)(A)(i)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(2)(A)(i)(I)) is amended by striking "or 1956" and inserting "1517, 1956, or 1957".

(b) FEDERAL CREDIT UNION ACT.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

(c) CRIME CONTROL ACT OF 1990.—Section 2546 of the Crime Control Act of 1990 (28 U.S.C. 522 note; 104 Stat. 4885) is amended by adding at the end the following new subsection:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

**SEC. 1230. WIRETAPS.**

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by adding "or" at the end of paragraph (d); and

(3) by inserting after paragraph (d) the following new paragraph:

"(e) intentionally uses, discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511 (b) and (c), 2511(e), 2516, and 2518, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, having obtained or received the information in connection with a criminal investigation, with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

**SEC. 1231. THEFTS OF MAJOR ART WORKS.**

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 668. Theft of a major art work**

"(a) THEFT FROM MUSEUM.—Whoever steals or obtains by fraud any object of cultural heritage held in a museum commits a class C felony.

"(b) EXHIBITION OR STORAGE BY MUSEUM.—A museum that exhibits to the public or holds in storage any stolen object of cultural heritage knowing that such object is stolen commits a class C felony.

"(c) LIMITATIONS.—Notwithstanding section 3282, the statute of limitations for an offense under this section is 20 years.

"(d) FORFEITURE.—The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982.

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

"(1) the term 'museum' means an organized and permanent institution, essentially educational or aesthetic in purpose with professional staff, that owns and utilizes tangible objects, cares for them, and exhibits them to the public during a regularly scheduled period; and

"(2) the term 'stolen object of cultural heritage' means a stolen object that is—

"(A) registered with the International Foundation for Art Research, Smith International Adjustors, or any equivalent registry; and

"(B) reported to law enforcement authorities as having been stolen.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end the following new item:

"668. Theft of a major art work.".

**SEC. 1232. MILITARY MEDALS AND DECORATIONS.**

Section 704 of title 18, United States Code, is amended—

(1) by striking "not more than $250" and inserting "under this title"; and

(2) by adding at the end "For the purposes of this section, the term 'sells' includes trades, barters, or exchanges for anything of value.".

**SEC. 1233. MOTOR VEHICLE THEFT PREVENTION ACT.**

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

**"§ 160. Motor vehicle theft prevention program**

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehi-

cle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such a person that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner or with the consent of the owner.

"(2) MORE THAN 1 SET OF CONDITIONS.—The Attorney General may establish more than 1 set of conditions under which participating motor vehicles may be stopped. If more than 1 set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) MOTOR VEHICLES FOR HIRE.—

"(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) TYPE OF NOTICE.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) PARTICIPATING STATE OR LOCALITY.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality shall agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program and with the conditions under which motor vehicles may be stopped under the program.

"(h) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following new item:

"160. Motor vehicle theft prevention program.".

(c) ALTERATION OR REMOVAL OF MOTOR VEHICLE IDENTIFICATION NUMBERS.—

(1) BASIC OFFENSE.—Section 511(a) of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to section 160 of title 23 shall be fined not more than $10,000, imprisoned not more than 5 years, or both.".

(2) EXCEPTED PERSONS.—Section 511(b)(2) of title 18, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to section 160 of title 23 if that person is the owner of the motor vehicle or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or the owner's authorized agent;

"(ii) State or local law; or

"(iii) regulations promulgated by the Attorney General to implement section 160 of title 23.".

(3) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d) For purposes of subsection (a), the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to section 160 of title 23 for the purpose of obstructing its visibility.".

(4) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(A) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 511 the following new section:

**"§ 511A. Unauthorized application of theft prevention decal or device**

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, without authorization under section 160 of title 23 shall be fined not more than $5,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to section 160 of title 23.".

(B) TECHNICAL AMENDMENT.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by inserting after the item for section 511 the following new item:

"511A. Unauthorized application of theft prevention decal or device.".

**SEC. 1234. KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.**

(a) OFFENSE.—Chapter 1 of title 18, United States Code, as amended by section 771(b), is amended by adding at the end the following new section:

**"§ 22. Stolen or counterfeit nature of property for certain crimes defined**

"(a) ESTABLISHMENT OF ELEMENT OF OFFENSE.—Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, the element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) DEFINITION.—For purposes of this section, the term 'official representation' means a representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, as amended by section 771(c), is amended by adding at the end thereof the following new item:

"22. Stolen or counterfeit nature of property for certain crimes defined.".

**SEC. 1235. MAIL FRAUD.**

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to

be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

**SEC. 1236. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.**

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly, and with intent to defraud, effects transactions, with 1 or more access devices issued to another person, to receive anything of value aggregating $1,000 or more during any 1-year period;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;";

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

**SEC. 1237. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.**

(a) OFFENSES.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new sections:

**"§ 1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce**

"(a) FALSE STATEMENT OR REPORT.—(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and, with the intent to deceive, knowingly makes any false material statement or report or willfully overvalues any land, property or security—

"(A) in connection with reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person; and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardizes the safety and soundness of an insurer.

"(b) MISUSE OF MONEY.—(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce; or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that if the embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardizes the safety and soundness of an insurer, the term of imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined under this title, imprisoned not more than 1 year, or both.

"(c) FALSE ENTRY OF FACT.—(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to—

"(A) deceive any person about the financial condition or solvency of such business; or

"(B) deceive any officer, employee, or agent of such person engaged in the business of insurance, insurance regulatory official or agency, or agent or examiner appointed by such official or agency to examine the affairs of such person,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine under this title, imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardizes the safety and soundness of an insurer, the term of imprisonment shall be not more than 15 years.

"(d) INFLUENCING, OBSTRUCTING, OR IMPEDING ADMINISTRATION OF LAW.—Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined under this title, imprisoned not more than 10 years, or both.

"(e) ENGAGING IN INSURANCE BUSINESS AFTER CONVICTION.—(1)(A) A person who has been convicted of an offense under this section, or of a felony involving dishonesty or a breach of trust, who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if the person has the written consent of an insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) DEFINITIONS.—As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance; or

"(B) the reinsuring of risks underwritten by insurance companies,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who are or who act as officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia or any territory or possession of the United States;

"(B) commerce between any point in a State and any point outside the State;

"(C) commerce between points within a State through any place outside the State; and

"(D) all other commerce over which the United States has jurisdiction;

"(3) the term 'insurer' means—

"(A) a business that is organized as an insurance company under the laws of a State, whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to supervision by the insurance official or agency of a State; or

"(B) a receiver or similar official or any liquidating agent for such a company, in his or her capacity as such,

and includes any person who is or acts as an officer, director, agent, or employee of that business; and

"(4) the term 'State' includes a State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

**"§ 1034. Civil penalties and injunctions for violations of section 1033**

"(a) CIVIL PENALTY.—The Attorney General may bring a civil action in an appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation that the person received or offered for the prohibited conduct, whichever amount is greater. If the offense contributed to the insolvency of an insurer that has been placed under the control of a State insurance regulatory agency or official, such penalty shall be remitted to the regulatory official of the insurer's State of domicile for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy that is available by law to the United States or any other person.

"(b) INJUNCTION.—If the Attorney General has reason to believe that a person is en-

gaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy that is available by law to the United States or any other person.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by adding at the end the following new items:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
"1034. Civil penalties and injunctions for violations of section 1033.".

(c) MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.—

(1) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by inserting "or" at the end of subparagraph (C); and

(C) by adding at the end the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;".

(2) LIMITATIONS.—Section 3293(1) of title 18, United States Code, is amended by inserting "1033," after "1014,".

(3) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce; or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person of the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033.".

**SEC. 1238. INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.**

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000, imprisoned not more than 10 years"; and

(B) by striking "not more than $1,000,000" and inserting "not more than $5,000,000"; and

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000, imprisoned not more than 20 years"; and

(B) by striking "not more than $5,000,000" and inserting "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services).".

**SEC. 1239. COMPUTER ABUSE AMENDMENTS ACT OF 1992.**

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1992".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) a fine under this title, imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) A person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless the action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18 United States Code, as amended by subsection (d), is amended by adding at the end the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under subsection (a)(5).".

(f) DEFINITION.—Section 1030(e)(1) of title 18 United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18 United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

**SEC. 1239A. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE AMOUNTS OF CASH IN WEAPONS SCREENING.**

Section 315 of the Federal Aviation act of 1958 (49 U.S.C. App. 1356) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR CASH IN EXCESS OF $10,000.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations requiring employees and agents described in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers—

"(1) a controlled substance the possession of which may be a violation of Federal or State law; or

"(2) an amount of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.".

**Subtitle D—Sentencing and Procedure**

**SEC. 1241. IMPOSITION OF SENTENCE.**

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

**SEC. 1242. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.**

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

**SEC. 1243. REVOCATION OF PROBATION.**

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO COOPERATE IN DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

**SEC. 1244. SUPERVISED RELEASE AFTER IMPRISONMENT.**

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place it appears and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COOPERATE WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm (as defined in section 921) in violation of Federal law or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to cooperate in drug testing imposed as a condition of supervised release, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

**SEC. 1245. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.**

Section 3561 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) PETTY OFFENSES.—Subsection (a)(3) does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

**SEC. 1246. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.**

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403.".

**SEC. 1247. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.**

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.".

**SEC. 1248. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.**

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking "subsection (d)" and inserting "subsection (e)"; and

(B) in the second sentence by striking "place him on probation, or commit him to official detention" and inserting "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)";

(2) by redesignating subsection (d) as subsection (e); and

(3) by adding after subsection (c) the following new subsection:

"(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than 18 years old, beyond the earlier of—

"(A) the date on which the juvenile becomes 21 years old; or

"(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between 18 and 21 years old—

"(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond 5 years; or

"(B) in any other case beyond the lesser of—

"(i) 3 years; or

"(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.".

**SEC. 1249. IMMUNITY.**

Section 6003(b) of title 18, United States Code, is amended—

(1) by striking "or" before "Deputy Assistant Attorney General" and inserting a comma; and

(2) by inserting "or one other officer or employee of the Criminal Division designated by the Attorney General" after "Deputy Assistant Attorney General,".

**SEC. 1250. EXTENDED SERVICE OF MEMBERS OF THE SENTENCING COMMISSION.**

Section 992(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Subject to paragraph (2)—

"(A) no voting member of the Commission may serve more than 2 full terms; and

"(B) a voting member appointed to fill a vacancy that occurs before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of that term.

"(2) A voting member of the Commission whose term has expired may continue to serve until the earlier of—

"(A) the date on which a successor has taken office; or

"(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.".

**Subtitle E—Immigration-Related Offenses**

**SEC. 1251. EXPLOITATION OF ALIENS.**

(a) OFFENSE.—Chapter 1 of title 18, United States Code, as amended by section 1234(a), is amended by adding at the end the following new section:

**"§ 23. Exploitation of aliens**

"(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggravated felony, as defined in section 101(a)(43) of the

Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

"(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

"(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

"(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought by the Attorney General in a civil action before a United States district court.

"(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, as amended by section 1234(b), is amended by adding at the end the following new item:

"23. Exploitation of aliens.".

**SEC. 1252. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.**

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 1251 shall be covered into the Fund and shall be used for the purposes of this section.

(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into the Fund in any fiscal year may be used by the Attorney General—

(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony; and

(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 (104 Stat. 5052) that have not been funded.

(2) Ten percent of the monies covered into the Fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)); and

(B) modifying a plan described in section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1330) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

**SEC. 1253. ALIENS CONVICTED OF FELONY DRUNK DRIVING.**

Section 241(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)) is amended—

(1) by redesignating clause (iv) as clause (v);

(2) by inserting after clause (iii) the following new clause:

"(iv) DRIVING UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE.—An alien who is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party is deportable."; and

(3) in clause (v), as redesignated by paragraph (1), by striking "and (iii)" and inserting "(iii), and (iv)".

**Subtitle F—United States Marshals**

**SEC. 1261. SHORT TITLE.**

This subtitle may be cited as the "United States Marshals Association Establishment Act".

**SEC. 1262. ESTABLISHMENT AND PURPOSE OF ASSOCIATION.**

(a) ESTABLISHMENT.—There is established the United States Marshals Association (referred to in this subtitle as the "Association"). The Association is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Association are—

(1) to elevate and strengthen public knowledge of law enforcement in general, and the United States Marshals Service in particular;

(2) to promote the exchange of information among private and public institutions and individuals about law enforcement and justice systems issues;

(3) to organize symposia, studies, and research in carrying out paragraphs (1) and (2);

(4) to study the history of law enforcement;

(5) to produce, sell, and distribute educational materials on law enforcement and justice systems issues;

(6) to accept and administer private gifts or property for the benefit of, or in connection with, the activities and services of the United States Marshals Service; and

(7) to promote law enforcement.

**SEC. 1263. BOARD OF DIRECTORS OF THE ASSOCIATION.**

(a) ESTABLISHMENT AND MEMBERSHIP.—The Association shall have a governing Board of Directors (referred to in this subtitle as the "Board"), which shall consist of not less than 3 nor more than 20 members, each of whom shall be a United States citizen and be knowledgeable or experienced in law enforcement matters. The Director of the United States Marshals Service shall be a nonvoting member of the Board, ex officio. 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.

(b) APPOINTMENT AND TERMS.—

(1) INITIAL APPOINTMENT.—The members of the Board first appointed shall be appointed by the United States Marshals Association, a nonprofit corporation in existence before the enactment of this Act, which is organized under the laws of the State of Virginia.

(2) SUBSEQUENT APPOINTMENT.—The members of the Board appointed after the appointment of Directors under paragraph (1) shall be appointed in the manner provided in the bylaws of the Association.

(3) ADVICE OF DIRECTOR.—A member of the Board may be appointed with the advice of the Director of the United States Marshals Service (referred to in this subtitle as the "Director").

(4) TERMS.—The members of the Board shall be appointed for terms of 4 years. A vacancy on the Board shall be filled in the manner in which the original appointment was made. No person may serve for more than 2 consecutive terms as a member of the Board.

(c) CHAIR.—The chair of the Board shall be elected by the Board from its members to a 2-year term.

(d) QUORUM.—A majority of the membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the chair at least twice each year. If a member of the Board misses 3 consecutive regularly scheduled meetings, the member may be removed from the Board as provided in the bylaws of the Association, and that vacancy may be filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Association.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Association by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Association and the provisions of this subtitle; and

(C) carrying out such other actions as may be necessary to carry out this subtitle.

(2) The following limitations apply with respect to the appointment of officers and employees of the Association:

(A) Officers and employees may not be appointed until the Association has sufficient funds to pay them for their services. Officers and employees of the Association shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum rate of pay payable under section 5376 of title 5, United States Code, for a position classified above grade GS–15 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board, who—

(i) shall serve, at the direction of the Board, as its chief operating officer; and

(ii) shall be knowledgeable and experienced in matters relating to law enforcement.

(h) ADVISORY COUNCIL.—The chair of the Board may appoint an Advisory Council of up to 15 members to advise the Association on its activities under this subtitle. Members of the advisory council have no vote in matters before the Association.

**SEC. 1264. MEMBERSHIP.**

(a) ELIGIBILITY.—Eligibility for membership in the Association shall be limited to persons and organizations demonstrating support of the stated purpose, goals, and functions of the Association. Categories of membership shall be as follows:

(1) Regular member, which shall be limited to individuals actively or formerly employed in the United States Marshals Service.

(2) Associate member, which shall be limited to individuals who are qualified by training or experience in Federal, State, local, or foreign law enforcement.

(3) Honorary member, which shall be limited to individuals who have an outstanding record of service in the public or private sector.

(4) Corporate member, which shall be limited to nongovernmental public, private, or

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nonprofit organizations which support the purposes of the United States Marshals Association.

(5) Sponsoring member, which shall be limited to Federal or State government entities.

(b) APPLICATION.—Persons may apply or be nominated for membership in the Association. Any such application shall be made in writing on the form provided by the Association.

(c) SPONSORSHIP.—Applicants or nominees for membership in any category except that of sponsoring member must be proposed by a regular member. Acceptance of applicants or nominees for membership shall be determined by a majority vote of the Board.

(d) DUES FOR MEMBERS.—Membership dues shall be established by the Board. Dues must accompany a prospective member's application. No dues shall be required in the case of honorary members or sponsoring members.

(e) VOTING.—A member may vote in matters for which the vote of the Association is required, and may serve on the Board.

(f) SUSPENSION OR EXPULSION OF MEMBERS.—A member of the Association may be suspended or expelled for nonpayment of dues in arrears for at least 60 days, for good cause, or for other reasons by a vote of two-thirds of the Board in accordance with procedures prescribed in Robert's Rules of Order. No member who has been suspended or expelled from the Association may be readmitted to membership for a period of 1 year, and readmission thereafter shall require the consent of two-thirds of the Board.

**SEC. 1265. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.**

(a) IN GENERAL.—The Association—

(1) shall have perpetual existence;

(2) may conduct business throughout the States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Virginia or such other place as may be determined by the Board; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Association.

(b) SERVICE OF PROCESS.—Service of process on the agent required under subsection (a)(4) or the mailing of process to the business address of the agent shall constitute service on the Association.

(c) SEAL.—The Association may use the seal, insignia, or badge of the United States Marshals Service, and other materials unique to the United States Marshals Service, only with the express written permission of the Director.

(d) POWERS.—To carry out its purposes under section 1262, the Association shall have, in addition to the powers otherwise given it under this subtitle, the usual powers of a corporation acting as a trustee in the State of Virginia or wherever else the Association is incorporated. The Association shall have 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 acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) 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;

(6) to enter into contracts or 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

(7) to do any and all acts necessary and proper to carry out the purposes of the Association.

(e) ACCEPTANCE OF GIFTS.—A gift, devise, or bequest may be accepted by the Association even though it is encumbered, restricted, or subject to the beneficial interests of private persons if any current or future interest therein is for the benefit of the Association.

**SEC. 1266. ADMINISTRATIVE SERVICES AND SUPPORT.**

The Director may provide personnel, facilities, and other administrative services to the Association, including reimbursement of expenses under section 1262, not to exceed the then current Federal Government per diem rates, until the date that is 5 years after the date of the enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

**SEC. 1267. VOLUNTEER STATUS.**

The Director may, notwithstanding section 1342 of title 31, United States Code, accept voluntary services of the Association in the performance of the functions of the Association under this subtitle.

**SEC. 1268. RESTRICTIONS.**

(a) FINANCIAL INTERESTS.—No part of the income or assets of the Association shall inure to any member or officer of the Association or member of the Board or be distributed to any such person. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers or the Association or reimbursement for actual necessary expenses in amounts approved by the Board.

(b) PROHIBITION ON LOANS.—The Association shall not make any loan to any member of the Board or to any officer or employee of the Association.

(c) PROHIBITION ON STOCK.—The Association shall have no power to issue any shares of stock or to declare or pay any dividends.

**SEC. 1269. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.**

(a) AUDITS.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101 et seq.), the Association shall be treated as a private corporation established under Federal law.

(b) REPORT.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the Congress a report of its proceedings and activities during the year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN ASSOCIATION ACTS OR FAILURES TO ACT.—If the Association—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 1262(b); or

(2) refuses, fails, or neglects to discharge its obligations under this subtitle, or threatens to do so,

the Attorney General of the United States may petition the appropriate court for such equitable relief as may be necessary or appropriate.

**SEC. 1270. LIABILITY OF THE UNITED STATES.**

The United States shall not be liable for any debts, defaults, acts, or omissions of the Association, nor shall the full faith and credit of the United States extend to any obligation of the Association.

**SEC. 1271. NONDISCRIMINATION.**

(a) EMPLOYMENT PRACTICES.—Notwithstanding section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)) or section 101(5)(B) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12111(5)(B)), the Association and any agent of the Association shall be considered to be an employer for purposes of title VII of the Civil Rights Act of 1964 and the Americans With Disabilities Act of 1990 if the Association is engaged in an industry affecting commerce and meets the minimum employee requirements set forth in those Acts.

(b) MEMBERSHIP PRACTICES.—

(1) PROHIBITED PRACTICES.—It shall be unlawful for the Association, on the basis of the race, color, religion, sex, national origin, age, or disability of an individual, to—

(A) fail or refuse to accept the individual into membership;

(B) expel the individual from membership;

(C) suspend the membership of the individual; or

(D) discriminate against the individual with respect to any of the benefits or obligations of membership.

(2) ENFORCEMENT.—

(A) RIGHT OF ACTION.—Any person may bring a civil action to enforce paragraph (1) in any appropriate United States district court. Any such action may be dismissed for just cause.

(B) INJUNCTIVE RELIEF.—In any civil action brought under this paragraph, the court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate.

**SEC. 1272. ACQUISITION OF ASSETS AND LIABILITIES OF EXISTING ASSOCIATION.**

The Association may acquire the assets of the United States Marshals Association, a nonprofit organization organized under the laws of the State of Virginia before the enactment of this Act.

**SEC. 1273. AMENDMENT AND REPEAL.**

The Congress expressly reserves the right to repeal or amend this subtitle at any time.

### Subtitle G—Other Provisions

**SEC. 1281. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.**

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

**"§ 3239. Optional venue for espionage and related offenses**

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4 (b) or (c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) and (c)),

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 211 of title 18, United States Code, is amended by inserting after the item relating to section 3238 the following new item:

"3239. Optional venue for espionage and related offense.".

**SEC. 1282. DEFINITION OF LIVESTOCK.**

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"'Livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, and the carcasses thereof;".

**SEC. 1283. COURT TO BE HELD AT LANCASTER.**

Section 118(a) of title 28, United States Code, is amended by inserting "Lancaster," before "Reading".

**SEC. 1284. AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A UNITED STATES ATTORNEY'S OFFICE IN PHILADELPHIA, PENNSYLVANIA.**

(a) AUTHORIZATION.—There is authorized to be appropriated $35,000,000, to remain available until expended, to plan, acquire a site for, design, construct, build out, equip, and prepare for use an office building to house the United States Attorney's Office in Philadelphia, Pennsylvania, notwithstanding any other law.

(b) SITE SELECTION.—The site of the office building constructed pursuant to subsection (a) shall be at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center and shall be approved by the Attorney General after notification submitted to the Congress as required by law.

**SEC. 1285. AWARD OF ATTORNEY'S FEES FOR EMPLOYEES OF DEPARTMENT OF JUSTICE.**

Section 519 of title 28, United States Code, is amended—

(1) by striking "Except" and inserting "(a) IN GENERAL.—Except"; and

(2) by adding at the end the following new subsection:

"(b) AWARD OF FEES.—

"(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

"(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as a result of such investigation.

"(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such an inquiry, the Attorney General shall consider—

"(A) the sufficiency of the documentation accompanying the request;

"(B) the need or justification for the underlying item;

"(C) the reasonableness of the sum requested in light of the nature of the investigation; and

"(D) current rates for legal services in the community in which the investigation took place.".

**SEC. 1286. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.**

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000; and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of this section—

(1) the term "criminal offense" means—

(A) any Federal criminal offense involving a controlled substance;

(B) racketeering;

(C) money laundering; and

(D) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs;

(2) the term "money laundering" means an offense under section 1956 or 1957 of title 18, United States Code; and

(3) the term "racketeering" means an offense under section 1951, 1952, or 1955 of title 18, United States Code.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney; and

(2) the office of the local prosecuting attorney,

for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary to implement this section within 90 days after the date of enactment of this Act.

(e) EFFECTIVE DATE.—This section shall become effective on the date that is 60 days after the date of the promulgation of regulations under subsection (d).

**SEC. 1287. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS AND REPORT TO CONGRESS ON ADMINISTRATIVE EXPENSES.**

(a) IN GENERAL.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) REPORT TO CONGRESS.—Section 524(c)(6) of title 28, United States Code, 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 ", which report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under paragraph (7)(B)."; and

(3) by adding at the end the following new subparagraph:

"(D) a report for the fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

**SEC. 1288. DNA IDENTIFICATION.**

(a) FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.—

(1) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)), as amended by section 531, is amended—

(A) by striking "and" at the end of paragraph (21);

(B) by striking the period at the end of paragraph (22) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(23) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (referred to in this title as 'DNA') for identification purposes.".

(2) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 1288(b) of the Crime Control Act of 1992;

"(B) DNA samples obtained by and DNA analyses performed at the laboratory will be made available only—

"(i) to criminal justice agencies, for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; and

"(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) the laboratory and each analyst performing DNA analyses at the laboratory will undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1288(b) of the Crime Control Act of 1992.".

(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1992, 1993, 1994, 1995, and 1996 there are authorized to be appropriated $10,000,000 for grants to the States for DNA analysis.

(b) QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—

(1) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory directors. The advisory board shall include as members scientists from State and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appro-

priate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(B) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(C) The standards described in subparagraphs (A) and (B) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(D) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(2) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under paragraph (1) shall be considered to be an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date that is 5 years after the date on which initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

(c) INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may establish an index of—

(A) DNA identification records of persons convicted of crimes;

(B) analyses of DNA samples recovered from crime scenes; and

(C) analyses of DNA samples recovered from unidentified human remains.

(2) CONTENTS.—The index established under paragraph (1) shall include only information on DNA identification records and DNA analyses that are—

(A) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1288(b) of the Crime Control Act of 1992;

(B) prepared by laboratories and DNA analysts that undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1288(b) of the Crime Control Act of 1992; and

(C) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(i) to criminal justice agencies, for law enforcement identification purposes;

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or

(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) FAILURE TO MEET REQUIREMENTS.—The exchange of records authorized by this subsection is subject to cancellation if the quality control and privacy requirements described in paragraph (2) are not met.

(d) FEDERAL BUREAU OF INVESTIGATION.—

(1) PROFICIENCY TESTING REQUIREMENTS.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under subsection (b). Not later than 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this subparagraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(B) For each of the 5 years following the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate an annual report on the results of each of the tests described in subparagraph (A).

(2) PRIVACY PROTECTION STANDARDS.—(A) Except as provided in subparagraph (B), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(i) to criminal justice agencies for law enforcement identification purposes; or

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged.

(B) If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) CRIMINAL PENALTIES.—(A) Whoever—

(i) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(ii) willfully discloses such information in any manner to any person or agency not entitled to receive it,

shall be fined not more than $100,000.

(B) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out subsections (b), (c), and (d).

**SEC. 1289. SAFE SCHOOLS.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1064(a), is amended—

(1) by redesignating part V as part W;

(2) by redesignating section 2201 as section 2301; and

(3) by inserting after part U the following new part:

**"PART V—SAFE SCHOOLS ASSISTANCE**

**"SEC. 2201. GRANT AUTHORIZATION.**

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in a timely fashion and make such model available to any local educational agency that requests such information.

**"SEC. 2202. USE OF FUNDS.**

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices; and

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools.

**"SEC. 2203. APPLICATIONS.**

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 2202;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within the schools served by such local educational agency.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce crime problems.

**"SEC. 2204. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.**

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during

which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 2203(c).

**"SEC. 2205. AWARD OF GRANTS.**

"(a) SELECTION OF RECIPIENTS.—The Director, in consultation with the Secretary of Education, shall consider the following factors in awarding grants to local educational agencies:

"(1) CRIME PROBLEM.—The nature and scope of the crime problem in the targeted schools.

"(2) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 2203(c).

"(3) POPULATION.—The number of students to be served by the plan required under section 2203(c).

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

**"SEC. 2206. REPORTS.**

"(a) REPORT TO DIRECTOR.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 2203(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part, which report shall contain—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 2203(b)(4); and

"(3) an evaluation of programs established under this part.

**"SEC. 2207. DEFINITIONS.**

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1064(b), is amended by striking the matter relating to part V and inserting the following:

"PART V—SAFE SCHOOLS ASSISTANCE

"Sec. 2201. Grant authorization.
"Sec. 2202. Use of funds.
"Sec. 2203. Applications.
"Sec. 2204. Allocation of funds; limitations on grants.
"Sec. 2205. Award of grants.
"Sec. 2206. Reports.
"Sec. 2207. Definitions.

"PART W—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2301. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1064(c), is amended by adding at the end the following new paragraph:

"(16) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out projects under part V.".

## TITLE XIII—TECHNICAL CORRECTIONS

**SEC. 1301. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.**

(a) TESTING OF CERTAIN SEX OFFENDERS FOR HUMAN IMMUNE DEFICIENCY VIRUS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)";

(3) in subsection (e) by striking "or (e)" and inserting "or (f)"; and

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but"; and

(ii) by striking "this subsection," and inserting "this subsection"; and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a(b)) is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "subsection (a) (1) and (2)"; and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section"; and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "section 515(a) (1) or (3)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)), as amended by section 902, is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M.," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(3)) is amended by striking "and N" and inserting "N, O, P, Q, R, S, T, U, V, and W".

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),"; and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)";

(ii) by striking "personal"; and

(iii) in the first proviso by striking "section" and inserting "subsection"; and

(2) in section 1204(3) (42 U.S.C. 3796b(3)) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

**"PART M—REGIONAL INFORMATION SHARING SYSTEMS".**

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb) is amended to read as follows:

**"PART O—RURAL DRUG ENFORCEMENT".**

(h) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant";

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications"; and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) (42 U.S.C. 3722(c)(2)(E)) by striking "crime,," and inserting "crime,";

(2) in section 302(c)(19) (42 U.S.C. 3732(c)) by striking the period at the end and inserting a semicolon;

(3) in section 602(a)(1) (42 U.S.C. 3769a(a)(1)) by striking "chapter 315" and inserting "chapter 319";

(4) in section 603(a)(6) (42 U.S.C. 3769b(a)(6)) by striking "605" and inserting "606";

(5) in section 605 (42 U.S.C. 3769c) by striking "this section" and inserting "this part";

(6) in section 606(b) (42 U.S.C. 3769d(b)) by striking "and Statistics" and inserting "Statistics";

(7) in section 801(b) (42 U.S.C. 3782(b))—

(A) by striking "parts D," and inserting "parts";

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E";

(C) by striking "403(a)" and inserting "501"; and

(D) by striking "403" and inserting "503";

(8) in the first sentence of section 802(b) (42 U.S.C. 3783(b)) by striking "part D," and inserting "subpart 1 of part E or under part";

(9) in the second sentence of section 804(b) (42 U.S.C. 3785(b)) by striking "Prevention or" and inserting "Prevention, or";

(10) in section 808 (42 U.S.C. 3789) by striking "408, 1308," and inserting "507";

(11) in section 809(c)(2)(H) (42 U.S.C. 3789d(c)(2)(H)) by striking "805" and inserting "804";

(12) in section 811(e) (42 U.S.C. 3789f(e)) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance";

(13) in section 901(a)(3) (42 U.S.C. 3791(a)(3)) by striking "and," and inserting ", and"; and

(14) in section 1001(c) (42 U.S.C. 3793(c)) by striking "parts" and inserting "part".

(j) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance

Administration" and inserting "Director of the Bureau of Justice Assistance".

**SEC. 1302. GENERAL TITLE 18 CORRECTIONS.**

(a) SECTION 1031.—Section 1031 of title 18, United States Code, is amended—

(1) by redesignating subsection (g), as added by Public Law 101-123, as subsection (h) and removing it to the end of the section; and

(2) in subsection (h), as redesignated by paragraph (1), by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions".

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma that follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293(1) of title 18, United States Code, is amended by striking "1008,".

(f) PART I PART ANALYSIS.—The item relating to chapter 33 in the part analysis for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

**SEC. 1303. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.**

(a) CONTRABAND IN PRISON.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended 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 (21 U.S.C. 863)".

(c) REQUIREMENTS FOR GOVERNMENTAL ACCESS.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) PROGRAMS RECEIVING FEDERAL FUNDS.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) OFFENDERS WITH MENTAL DISEASE OR DEFECT.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "section 4241(e), 4243(f), 4244(e), 4245(e), or 4246(e),".

(f) CONTINUING CRIMINAL ENTERPRISES.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(g) SENTENCING COMMISSION.—Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) FIREARMS.—Section 924(e)(2)(A)(i) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(i) ERRONEOUS CITATION IN CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 (104 Stat. 4908) is amended, effective as of the date of enactment of that Act, by striking "951(c)(1)" and inserting "951(c)(2)".

**SEC. 1304. OBSOLETE PROVISIONS IN TITLE 18.**

Title 18, United States Code, is amended—

(1) in section 212 by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213 by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709 by striking the seventh and thirteenth paragraphs;

(4) in section 711 by striking the second paragraph;

(5) by striking section 754 and amending the chapter analysis for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006 by striking "Reconstruction Finance Corporation," and by striking "Farmers' Home Corporation,";

(7) in section 658 by striking "Farmers' Home Corporation,";

(8) in section 1013 by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160 by striking "white person" and inserting "non-Indian";

(10) in section 1698 by striking the second paragraph;

(11) by striking sections 1904 and 1908 and amending the chapter analysis for chapter 93 by striking the items relating to those sections;

(12) in section 1909 by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391 and amending the chapter analyses for chapters 105 and 115, respectively, by striking the items relating to those sections;

(14) in section 2257 by striking subsections (f) and (g) that were enacted by Public Law 100-690 (102 Stat. 4488);

(15) in section 3113 by striking the third paragraph; and

(16) in section 3281 by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

**SEC. 1305. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.**

Section 104(a)(3) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)(3)) is amended by striking "issuer" and inserting "domestic concern".

**SEC. 1306. ELIMINATION OF REDUNDANT PENALTY.**

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting "(b)(5)".

**SEC. 1307. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.**

Title 18, United States Code, is amended—

(1) in section 513(c)(4) by striking "association or persons" and inserting "association of persons";

(2) in section 1956(e) by striking "Evironmental" and inserting "Environmental";

(3) in section 3125—

(A) in subsection (a)(2) by striking the quotation marks; and

(B) in subsection (d) by striking "provider for" and inserting "provider of"; and

(4) in section 3731, in the second undesignated paragraph, by striking "order of a district courts" and inserting "order of a district court".

## TITLE XIV—FEDERAL LAW ENFORCEMENT AGENCIES

**SEC. 1401. SHORT TITLE.**

This title may be cited as the "Federal Law Enforcement Act of 1992".

**SEC. 1402. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL LAW ENFORCEMENT AGENCIES.**

There is authorized to be appropriated $345,500,000 for fiscal year 1992 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include—

(A) not to exceed $45,000,000 to hire, equip, and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of State and local overtime, equipment, and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip, and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations.

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train, and equip no fewer than 500 full-time equivalent Border Patrol officer positions.

(B) $20,000,000 to hire, train, and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses.

(5) For the United States Marshals Service, $10,000,000.

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip, and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs.

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel, and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title.

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

## TITLE XV—FEDERAL PRISONS

**SEC. 1501. AUTHORIZATION OF APPROPRIATIONS FOR NEW PRISON CONSTRUCTION.**

There is authorized to be appropriated for fiscal year 1993 to the buildings and facilities account, Federal Prison System, Department of Justice, $500,000,000 for the planning of, acquisition of sites for, and the construction of new penal and correctional facilities, such appropriations to be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for that fiscal year.

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## SMITH AMENDMENTS NOS. 3374 THROUGH 3389

(Ordered to lie on the table.)

Mr. SMITH submitted 16 amendments intended to be proposed to the bill S. 2899, supra, as follows:

AMENDMENT NO. 3374

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion in which the mother was not required to wait for 24 hours prior to the performance of the abortion."

AMENDMENT NO. 3375

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured solely on the basis of the sex of the fetus."

AMENDMENT NO. 3376

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion in which the fetus was born alive."

AMENDMENT NO. 3377

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the first month of development."

AMENDMENT NO. 3378

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the second month of development."

AMENDMENT NO. 3379

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the third month of development."

AMENDMENT NO. 3380

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the fourth month of development."

AMENDMENT NO. 3381

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the fifth month development."

AMENDMENT NO. 3382

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the sixth month of development."

AMENDMENT NO. 3383

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the seventh month of development."

AMENDMENT NO. 3384

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the eighth month of development."

AMENDMENT NO. 3385

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured on a fetus who has passed the ninth month of development."

AMENDMENT NO. 3386

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion performed on a minor without notification of the parent of that minor."

AMENDMENT NO. 3387

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion performed on a minor without the consent of the parent of such minor."

AMENDMENT NO. 3388

At the appropriate place, add the following:

"Notwithstanding anything else in this Act to the contrary, no federal funds authorized to be appropriated pursuant to the provisions of this Act may be used for experimentation on human fetal tissue which has been procured from an abortion procured solely on the basis of the sex of the fetus."

AMENDMENT NO. 3389

At the appropriate place, add the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted."

## NATIONAL ADVANCED TECHNICIAN TRAINING ACT

### MIKULSKI (AND COCHRAN) AMENDMENT NO. 3390

Mr. EXON (for Ms. MIKULSKI for herself and Mr. COCHRAN) proposed an amendment to the bill (S. 1146) to establish a national advanced technician training program, utilizing the resources of the Nation's 2-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Scientific and Advanced-Technology Act of 1992".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the work force of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathematics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and post-secondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

**SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.**

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall award grants to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields. The grant program shall place emphasis on the needs of students who have been in the work force (including work in the home), and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development of model instructional programs in advanced-technology fields;

(2) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities, and

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall award grants for the establishment of centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional instructional programs in advanced-technology fields.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic region served by the center.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this partnership shall, at a minimum—

(i) counsel students, including students who have been in the work force (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (f)(3).

(C) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) FUNCTIONS OF THE DIRECTOR.—In carrying out this Act, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distribution of grant awards;

(3) ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (2)(c) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;

(4) establish and maintain a readily accessible inventory of the programs assisted under this Act; and

(5) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(g) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

**SEC. 4. ADMINISTRATION AMENDMENT.**

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

## NATIONAL INDIAN POLICY RESEARCH INSTITUTE

### INOUYE AMENDMENT NO. 3391

Mr. EXON (for Mr. INOUYE) proposed an amendment to the bill (S. 3155), to establish the National Indian Policy Research Institute, as follows:

Beginning on page 8, line 16, delete all through line 23;

On page 17, line 6, delete "Council—" and insert in lieu thereof "Council, which is advisory only and exercises no executive authority—";

On page 17, line 20, delete "shall" and insert in lieu thereof "may"; and

On page 20, line 17, delete "with, and make grants to—" and insert in lieu thereof "with—".

## CASH MANAGEMENT IMPROVEMENT ACT AMENDMENTS

### GLENN AMENDMENT NO. 3392

Mr. EXON (for Mr. GLENN) proposed an amendment to the bill (S. 2970) to amend the Cash Management Improvement Act of 1990, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Cash Management Improvement Act Amendments of 1992".

**SEC. 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.**

The Cash Management Improvement Act of 1990 (Public Law 101–453, 104 Stat. 1058) is amended—

(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act";

(2) in section 5 (31 U.S.C. 6503 note)—

(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";

(B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(3) in section 6 (31 U.S.C. 6503 note), by striking "Four and inserting "Five".

**SEC. 3. INTERNAL REVENUE SERVICE TAX REFUND OFFSET.**

Section 3720A of title 31, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";

(2) in subsection (b)—

(A) in paragraph (3) by striking out "and" at the end thereof;

(B) in paragraph (4) by striking out "to obtain payment of such debt." and inserting in lieu thereof "(determined on a government-wide basis) to obtain payment of such debt; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.";

(3) by redesignating subsection (g) as subsection (h);

(4) in subsection (h) (as redesignated under paragraph (3) of this section)—

(A) in paragraph (2) by striking out "and" at the end thereof;

(B) in paragraph (3) by adding "; and" at the end thereof; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."; and

(5) by inserting after subsection (f) the following:

"(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".

**SEC. 4. EXTENSION OF THE PRIVATE COUNSEL PILOT.**

(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States." approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578) is extended through September 30, 1996.

(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".

(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".

(d) CONTRACT EXTENSION.—The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.

**SEC. 5. AUDIT BY INSPECTOR GENERAL.**

(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.

**SEC. 6. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.**

Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".

**SEC. 7. EFFECTIVE DATE.**

The provisions of this Act and amendments made by this Act shall take effect on the date of enactment of this Act, except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.

## INDIAN AGRICULTURAL RESOURCES MANAGEMENT ACT OF 1992

### McCAIN AMENDMENT NO. 3393

Mr. GARN (for Mr. MCCAIN) proposed an amendment to the bill S. 2977 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; as follows:

Strike out in the text of the amendment subsection (a) of section 201 and insert a new subsection (a) as follows:

(a) MANAGEMENT ACTIVITIES.—The Secretary shall manage or administer the Indian rangeland and farmland programs authorized under existing law, either directly or through cooperative agreements, self-determination contracts, compacts and grants under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), or such other legal mechanisms as are appropriate.

## NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a Business Meeting on Saturday, October 3, 1992, on Senate Joint Resolution 335, a resolution acknowledging the 100th anniversary of the overthrow of the Kingdom of Hawaii and to offer an apology to the native Hawaiian people.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. EXON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to

meet on Friday, October 2, at 9:30 a.m. for a hearing on the nomination of Wayne Arthur Schley to be a Commissioner of the Postal Rate Commission.

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

COMMITTEE ON THE JUDICIARY

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Friday, October 2, 1992, at 4:30 p.m.

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

## ADDITIONAL STATEMENTS

### ENGLISH ONLY TREND ISN'T THE AMERICAN WAY

• Mr. SIMON. Mr. President, there is an unhealthy English only movement that is making the rounds in our country.

Ironically, many of those who push the English only approach to our problems are the same people who vote against appropriations for people who want to get into classes to learn English. In Los Angeles, for example, there are about 25,000 on the waiting list to get into classes to learn English, and in San Francisco about 15,000.

There is also an exaggerated fear of what all this means. That is not new in our history.

During World War I there were steps to remove foreign language teaching from our schools, and at least two States passed legislation to move in that direction, but the U.S. Supreme Court ruled that unconstitutional.

Recently, I read a column by Richard Roeper in the Chicago Sun-Times that lends common sense to this area where there is so much hysteria.

Let me add one other point. Recently, I read that there is a smaller percentage of Americans today whose mother tongue is not English than at any point in our Nation's history. I don't know if that is accurate or not, but it would not be surprising.

The antiforeign thrust that is so much a part of our history has never been a good part of our history.

I hope, as we legislate, we will use common sense.

At this point, I ask to insert into the RECORD the column by Richard Roeper, and I urge my colleagues in the House and the Senate to read his sensible column.

The column follows:

[From the Chicago Sun-Times, Aug. 31, 1992]

"ENGLISH ONLY" TREND ISN'T THE AMERICAN WAY

(By Richard Roeper)

The waiter is coldly polite as he listens to my complaint about a cigarette and its foul smoke appearing in the No Smoking section. He solves the problem, I thank him for the effort, and he replies with a curt, "You're welcome, sir."

Later in the evening, I'm on my way to the men's room when I encounter that same waiter, who is with a co-worker near the entrance to the kitchen. Looks like they might be on break.

I nod and make a lame, friendly joke; he gives a little laugh and says, "Really." But as I walk past, he switches from English to Greek and says something to his buddy—something that causes the two of them to erupt in hearty and seemingly derisive laughter. Suddenly I feel a little foolish.

Was it rude of him to erect that language barrier? Well, I don't even know what he said—he might not have been talking about me at all—but yeah, there was something off-putting about it. Judging from the tone of their voices and the nature of their laughter, I'd be willing to bet they were sharing a laugh at my expense.

Episodes like that occur all the time in public service arenas: You're at a convenience store or a hotel or an auto repair shop, and the employee who had been speaking to you in English turns to a colleague and initiates an exchange in another language. Suddenly you feel isolated, maybe even insulted. Maybe they're talking about you, more likely they're not, but in either case it has the same effect as if they had started whispering in front of you.

Mildly annoying? Sure—but no big deal. Although I was irked by the incident in the Greek restaurant, I got over it in a fingersnap. It's not like I sought out the manager and complained about his employees using a language shield to insult the customers. To do so would have turned me into the quintessentially paranoid ugly American, in essence demanding, "They're in the United States now, they should speak English!" After all, if we're not the world's melting pot, we're at least its mixing bowl, and thriving multiculturalism is what the good old U.S.A. is all about, right? Ahem, Right?

Well, maybe not, considering the recent flurry of "English Only" policies cropping up in places of business. From medical centers to radio stations to meat packing plants, companies have instituted rules barring workers from using any language but English while on duty—and some employees have actually lost their jobs for not following these policies to the letter.

Jordania Reed, for example. She was fired from Driftwood Convalescent Hospital in Gilroy, Calif., for violating the nursing home's strict English-only rule. She didn't address a patient in Spanish, but when she was overheard talking to a co-worker in her native tongue—boom! She was out of a job.

Whether this was legal is open to debate. The director of the nursing home says he was following federal health regulations that say patients should be cared for in their own language, but it seem like a mighty stretch of those regulations to say that a short exchange in another language between coworkers in the hallway or the cafeteria is detrimental to a patient's health. Where is the neglect?

Guidelines established by the Equal Employment Opportunity Commission say English-only rules can be imposed only in cases of "business necessity," whatever that means. Court cases have further muddled the issue. In some instances, such as the Puerto Rican warehouse worker in New York City who lost his job when a supervisor overheard him talking in Spanish about ordering a pizza, the worker was reinstated. In other cases—e.g., the Filipino nurse who challenged an English-only policy at the Pomona Valley Hospital Medical Center—the judge ruled in favor of the company.

So which is it? Obviously, an employer should have the right to tell workers they have to be able to communicate with the customers in a language everyone understands. But for someone to lose a job for saying "Que pasa?" instead of "How are you?" is ludicrous—and downright un-American.•

### COMMENDING THE POLYCYSTIC KIDNEY RESEARCH FOUNDATION

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a remarkable organization which is devoted to research leading to a cure for polycystic kidney disease, known as PKD. I am speaking of the Polycystic Kidney Research Foundation.

The PKR Foundation was founded in 1982 by Joseph H. Bruening. PKD is a hereditary disease and there is no cure. The PKR Foundation first identified and then targeted investigators with innovative ideas and provided them with funds to develop new clinical treatment approaches and to set the groundwork for a genetic cure. Resources devoted to PKD research has significantly improved over the last 10 years. In 1982 only $100,000 a year was spent on PKD research. Now, more than $3 million is invested in PKD research.

Over the years PKD treatment has improved tremendously. There have been improved diagnosis and treatment of PKD. We have discovered better ways of controlling high blood pressure caused by PKD and improved care of children with the disease. The PKR Foundation is dedicated to determining the cause, improving clinical treatment, and discovering a cure for polycystic kidney disease.

Mr. President, I would like to extend my sincere congratulations to the Polycystic Kidney Research Foundation and commend them for their leadership and vision on this very important issue and I request that the Kansas City Star article on the PKR Foundation be printed in the RECORD.

The article follows:

COMMENDING THE POLYCYSTIC KIDNEY RESEARCH FOUNDATION

It happens almost every time strangers sally into Jared Grantham's old ground-floor laboratory. They spy the grotesque specimen bottled on his shelf, blistered and as big as a melon.

"What is that thing?"

"It's a kidney," Grantham replies.

"What's wrong with it?" they ask.

"Polycystic kidney disease," the University of Kansas Medical Center physician replies kindly but a bit sadly. Because he knows what they'll say next.

"Never heard of it."

Such is the frustration of Grantham, a world-leading researcher in what arguably is the Rodney Dangerfield of genetic diseases.

Mention muscular dystrophy, cystic fibrosis, sickle-cell anemia or Huntington's disease, and people nod. Sure, they've heard of them.

But talk about PKD—the most common lethal inherited illness in the United States,

dwarfing all those other illnesses—and you get blank stares.

"It's our biggest problem," Grantham said. "People don't know anything about it."

The people who do know, however, are waging a slowly growing international campaign centered in Kansas City to make the public aware. Kansas City might be considered PKD Central. And a big reason is the late Allene Bruening's kidneys.

"The family was just riddled with it," said developer Joseph Bruening, Allene's husband.

So the Bruenings knew well what to expect.

"I wanted to do something," he said.

GETTING AS BIG AS A FOOTBALL

About 600,000 Americans are believed to have the disease—costing taxpayers $300 million a year in Medicare dialysis and transplant costs—but research money is meager.

Half of all people who inherit PKD never have serious problems. For the other half, though, the disease is slow and methodical, probably causing high blood pressure, but mostly going unnoticed for years.

Deep inside the smooth organs, the kidney's normally wire-thin nephrons—tubes that filter urine and other fluids—are growing bubblelike cysts.

Thousands of these fluid-filled blisters—some pin-size, others grapefruit-size—eventually may consume the kidneys in a repulsive froth.

The kidneys become huge and puckered, sometimes growing from the size of a large pear, about 5 inches long, to the size of a football. People with the severe disease often look fat or pregnant. If the kidneys fail, people can die. Most, like Bruening, keep their bodies free of poisons with proper diet, medication or years of dialysis. Still others get kidney transplants.

So in 1982 when Joseph Bruening read an article in The Kansas City Star about Grantham's work on PKD and the fact that virtually no research was going on, Bruening contacted Grantham.

"I wasn't just going to sit there," Bruening said. "I figured I wasn't going to spend the rest of my life wringing my hands."

The Polycystic Kidney Disease Research Foundation was started with Bruening's financial backing several months later as the only organization in the country dedicated to the disease.

In 1982, about $100,000 was spent on PKD research. Today more than $3 million is spent. Thirteen PKD support groups have been formed in other cities.

"In 1982, there were perhaps two or three, maybe four, well-known researchers doing work in PKD," said foundation President Julian Dyke. Now there are more than 100.

Although it's still too early to say research in the area is booming—the Muscular Dystrophy Association, by contrast, spent $21 million supporting 500 researchers last year—the foundation sure is making a loud pop.

"It has played a major role in the understanding of the disease," said Vincente E. Torres, PKD researcher at the Mayo Clinic in Rochester, Minn.

THE GENETICS OF PKD

Most important is how scientists are zeroing in on the genetics of PKD. Researchers in 1985 found the general location of one gene that probably plays a significant role in causing PKD. Now they're working to isolate it, unravel its molecular sequence, so maybe it can be cloned, deciphered, even manipulated. The hope is that all this would lead to a greater understanding of how PKD works and maybe to treatments.

But because only half of the people who inherit the PKD gene ever suffer kidney failure, scientists surmise there's more afoot than genes.

At KU Medical Center, a small tear of PKD scientists are delving into PKD's biolchemistry, particularly how cysts form.

Some of their work, for example, suggests that one or more unknown proteins, growth factors, may be spurring the cysts to grow like a cancer. This very analogy is prompting still others at KU Medical Center to probe whether cancer-causing genes may be involved in PKD.

Beyond that, rats and mice with the disease soon may help answer mysteries about the role of diet and environment.

"I can take 10 patients with PKD, but the genes will be expressed at different times and in different circumstances." Grantham said. "It could be different environments, the food they eat, the drugs they take that will be a factor. That's what we can pursue now with the rats."

At places such as Yale University, the Mayo Clinic and laboratories in Japan, Australia and Germany, scientists are churning out an impressive body of work, almost all started in the last decade.

At the Oregon Health Sciences University in Portland, one foundation-supported researcher is working on new ways to drain the fluid from large painful cysts.

'NOT A SEXY DISEASE'

So much is happening, in fact, that in June more than 200 international PKD scientists flew to Kansas City for a symposium to unveil their work.

"It was fantastic," Dyke said.

Only no one covered it. Not the newspapers. Not television.

Dyke and Grantham simply shake their heads.

"I guess it's not a sexy disease," Grantham said.

Dyke suggests that PKD may go unnoticed simply because of the subject. Unlike the heart—the perceived center of life—or the brain—the center of intellect—the kidneys don't carry such emotional appeal.

The fact that many people with PKD don't get symptoms until a later age, say 50 or so, also doesn't help. The misperception is that old people are falling apart anyway.

Lawrence Elzinga, a PKD researcher in Oregon, suggests that PKD's image might suffer the stigma of being a genetic disease and, again, the wrong conclusion that "there's very little you can do about it."

Whatever the reason, PKD boosters want it changed. Right now they're looking to recruit a high-profile spokesman, maybe an athlete or actor, to champion their cause. They were happy to get a public service announcement from Paul Newman while he was in town filming "Mr. and Mrs. Bridge."

To tug on America's heart strings and purse strings, they also are focusing more on a rare and deadly childhood form of the disease. Infants born with the recessive form of PKD, as opposed to the genetically dominant adult form, often die in infancy or early childhood.

"It hits them out of the blue," Grantham said.

A child is featured on the front flap of one of the foundation's latest brochures. But that's about it for marketing moves.

But once the medical break-through comes—mainly through genetic research—PKD's time will come. It's the science that will sell, foundation officials say, just as it did with cystic fibrosis about a decade ago.

So until then, they plan on creeping forward—lobbying Congress, supporting research—even if, for now, few people hear them.

"It would be an understatement to say it (PKD) is not well-known," Dyke said. "But our day will come."

## AGRICULTURAL EMBARGOES

• Mr. KERREY. Mr. President, last month Vice President QUAYLE went to South Dakota in an attempt to draw distinctions between Republicans and Democrats on the subject of agriculture. On at least one issue—that of grain embargoes—it appears that the Vice President covered about as much ground as a young colt on the end of a long line.

I can understand the Bush campaign's reluctance to give the Vice President free rein on such matters, so I thought that perhaps a more complete examination of the record was in order.

There have been four major agricultural embargoes over the past 20 years. Three were imposed by Republican administrations, and one by a Democratic administration.

On June 27, 1973, President Nixon embargoed the export of soybeans and cottonseed, and the meal, cake, and oils made from those commodities.

On October 4, 1974, President Ford imposed sales moratoria suspending both corn and wheat sales to the Soviet Union. Three days later, USDA announced a prior-approval system that ultimately restricted the export of corn, wheat, soybeans, grain sorghum, barley, oats, and related products.

The Ford administration imposed a similar sales moratorium again in 1975. On August 11 of that year, the Secretary of Agriculture called on the major grain companies to withhold further sales to the Soviet Union. On September 9, President Ford extended this moratorium through mid-October. The next day, the suspension was broadened to include Poland as well.

On January 4, 1980, President Carter announced an embargo against the Soviet Union, restricting United States sales of corn, wheat, soybeans, meat, dairy products, and related exports to that country. The partial embargo affected those quantities of grain in excess of the maximum guaranteed purchase levels specified by the bilateral United State-Soviet agreement in effect at that time.

According to a November 1986 publication by the U.S. Department of Agriculture entitled "Embargoes, Surplus Disposal, and U.S. Agriculture," "Unlike the trade interruptions of the mid-1970's, imposed to ensure adequacy of domestic supplies and to calm dramatic price movements, the 1980 embargo had little domestic basis." Indeed, the Carter embargo was imposed 1 week after the Soviet's invasion of Afghanistan. President Carter cited the

threat to national security as the basis for the embargo. In my judgment, this reason didn't make that embargo correct, but it did make that action distinct, in a fundamental way, from the three Republican embargoes that preceded it.

For example, President Nixon embargoes oilseeds in 1973 because of tightening supplies and escalating prices for high-protein meal products. Similarly, President Ford's moratoria on grain sales in both 1974 and 1975 were driven by the administration's concern about short grain supplies and high commodity prices.

In other words, Mr. President, the three Republican grain embargoes had a common thread: They were all motivated by a desire to thwart market forces and artificially restrain the prices received by farmers. I guess the lesson here is that Republicans really believe their platform rhetoric on agriculture and the free market—to a point. And that point seems to be when farm prices get a little too high.

Finally, I might say, Mr. President, that it is understandable that the Vice President would spend so much time talking about the 1980 embargo, to the exclusion of previous embargoes. Such a narrow discussion gives him political advantage. It is also a subject on which he presumably is well-versed, since the acknowledged architect of that embargo, former National Security Adviser Zbigniew Brezinski, has served as adviser to the Bush-Quayle campaign.•

## TELEVISION VIOLENCE

• Mr. SIMON. Mr. President, to the credit to TV Guide, that publication has been focusing attention recently on the whole question of television violence and what it does in our society.

In a free society we have to have answers for this problem that are short of censorship. Anthea Disney, editor in chief of TV Guide, had an op-ed piece in the Los Angeles Times that I ask unanimous consent to insert into the RECORD at the end of my remarks.

TV Guide had sponsored a discussion of this and a special publication on the question of television violence, as well as the article in TV Guide.

I ask unanimous consent to insert these in the RECORD, also, and I urge my colleagues and staff members here on Capitol Hill to read both.

We're at the halfway point of the law, which authorizes the television industry to get together, without violation of the antitrust laws, to establish standards.

I hope something happens on a voluntary basis.

Mr. President, at this point, I ask to insert the articles into the RECORD.

The articles follow:

[From TV Guide]

IN ONE DAY IN ONE CITY, 1,846 ACTS OF TV VIOLENCE—THAT'S ENTERTAINMENT?

(By Anthea Disney)

Imagine the following label affixed to your television set: Warning—Watching Television May Be Hazardous to Your Children's Health.

If that sounds radical, consider the studies that convincingly demonstrate a correlation between the frequent viewing of violence and aggressive behavior in youngsters.

A new study commissioned by TV Guide shows that there's more violence entering our homes than ever before. It's coming from many more sources—home video, pay-per-view and cable, as well as from broadcast networks and local stations. The primary offenders are music videos, reality shows, cartoons and promos for violent theatrical movies.

In a single, random day (April 2) of television programming tracked in Washington for TV Guide, 1,846 individual acts of violence were observed. (We defined violence as "any deliberate act involving physical force or the use of a weapon in an attempt to achieve a goal, further a cause, stop the action of another, act out an angry impulse, defend oneself from attack, secure a material reward, or intimidate others.")

Of the programming monitored, cartoons were the most violent category, with 471 violent scenes in just one day.

21% of all the violence—389 scenes—involved a life-threatening assault 362 scenes involved gunplay.

Cable networks averaged three times as much violence as the "Big Three" commercial networks. Specifically, music videos proved to be a greater source of televised violence than previously imagined. MTV showed as much violence as the three commercial networks combined.

It has been estimated that by the time a child graduates from elementary school, he or she will have witnessed at least 8,000 murders and more than 100,000 acts of violence on television. In her book, "Deadly Consequences," Dr. Deborah Prothrow-Stith, assistant dean of government and community programs at the Harvard School of Public Health, points out that inner-city children may be more vulnerable to the effects of violence on television. These kids not only watch more TV because they spend more time indoors—the streets are dangerous and there are few other recreational choices; they also have fewer male role models countering the TV super-hero who's solving problems with violence.

So what can we do, short of censorship but beyond hand-wringing?

Why not treat TV violence as a public health issue, as we do already with cigarette smoking and drunken driving? Think how much those campaigns have changed people's attitudes and behavior and, most important, saved lives. to take the same approach with TV programming would involve an intensive public education campaign and strenuous encouragement of the television industry to be sensitive to the problem and deglamorize physical force and the people who resort to it.

As Peggy Charren, president of Action for Children's Television, said to us, "You have to help parents understand that that box in the living room is not always a friend of the family."

It's up to parents to make the effort to watch what their children are watching so that they can screen out overly violent programs and discuss what the make-believe acts of violence would mean in real life. Kids often don't seem to understand the true repercussions of a violent act; on TV, there frequently are no repercussions.

This fall, a number of popular shows will have the Los Angeles riots in their plot lines. If the new season reflects TV at its best, episodes on the riots will illuminate the conditions that led to the violence, not trivialize them and sensationalize the effect in images that may again become reality.

Many programmers and producers do really care about the results of the shows they air. But they live by the "overnights"—the Nielsen ratings, which define a success or a failure in television terms—and under that kind of pressure, the slope from relevance to sensationalism is a slippery one. But if, through education and the proper treatment by the industry, TV violence becomes viewed as distasteful and inappropriate, hopefully any meaningless violent act will end up with the same inglorious appeal as a drunk killing people on the highway.

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[From TV Guide, Aug. 22-28, 1992]

IS TV VIOLENCE BATTERING OUR KIDS?—NEW STUDY, NEW ANSWERS

SUMMING UP: WHAT WE CAN DO

The American Psychological Associaton suggests four steps parents can take:

(1) Watch at least one episode of programs the child watches to know how violent they are.

(2) When viewing together, discuss the violence with the child: why the violence happened and how painful it is. Ask the child how the conflict could have been solved without violence.

(3) Explain to the child how violence in entertainment is "faked" and not real.

(4) Encourage children to watch programs with the characters that cooperate, help, and care for each other. These programs have been shown to influence children in a positive way.

*Other possible steps*

Urge the broadcast, cable, and home video industries to adopt a unified ratings system of advisories to parents, labeling programs and movies as to their violence content.

Urge TV and cable industry executives to take full advantage of The Television Violence Act, permitting them to work collectively toward reducing media violence.

Make TV violence part of the public health agenda (as with smoking and drunk driving), publicizing—through a vigorous public information campaign in all information media—its perils and effects.

Establish courses in "critical viewing skills" as a regular aspect of school curricula, to help young people become more discriminating viewers.

Inquire of elected officials their views and policies on televised violence; and then vote accordingly in November.

Promote passage of a law requiring that, eventually, all new television sets be manufactured with built-in time-channel lock circuitry allowing parents to "lock out" channels and programs containing high levels of violence.

Support the resolution of the American Psychological Association urging the broadcast and cable industries "to take a responsible attitude in reducing direct, imitatable violence" in live-action children's shows and "violent incidents on cartoons."

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[From TV Guide, Aug. 22-28, 1992]

HOW MUCH VIOLENCE?

(By Neil Hickey)

More televised violence than at any time in the medium's history is flowing into

American homes. It's coming from many more sources than ever before—home video, pay-per-view, and cable, as well as from the broadcast networks and stations. The overwhelming weight of scientific opinion now holds that televised violence is indeed responsible for a percentage of the real violence in our society. What is new is that psychologists, child experts, and the medical community are just now beginning to treat televised violence as a serious public health issue—like smoking and drunk driving—about which the public needs to be educated for its own safety and well-being.

How much violence is there on American television? How is it more virulent now than in recent years? Where is it coming from? What are its effects? What can parents, educators, the industry, and public officials do about it?

To attack those questions systematically, we commissioned a study of one-day in the life of TV—and convened an expert panel whose comments begin on page 12.

To snap our day-in-the-life-of-TV photo, we enlisted the Center for Media and Public Affairs, a nonprofit monitoring company whose business is fashioning statistical portraits of how American society is depicted in the media. We asked for and received a nonjudgmental, bias-neutral content analysis of one typical day of American television.

During 18 hours (6 A.M.-midnight) on April 2, 1992, in Washington, D.C., the center taped, tabulated, computerized, and analyzed the programs on 10 channels, the affiliates of ABC, CBS, NBC, Fox and PBS, one non-affiliated station, WDCA, plus the cable channels WTBS, the USA Network, MTV, and HBO. The program schedules, it turned out, were notable only for their ordinariness; no untypically violent movies like "Rambo" or "Scarface" were shown; even the news on that date was light on violent events such as wars, civil disorders, and local crime. The results of the study were an eye-opener. In those 180 hours of programming, we observed:

A total of 1,846 individual acts of violence; 175 scenes in which violence resulted in one or more fatalities; 389 scenes depicting serious assaults; 362 scenes involving gunplay; 673 depictions of punching, pushing, slapping, dragging, and other physically hostile acts; 226 scenes of menacing threats with a weapon.

Newer program forms like music videos and reality shows, it turns out, are significantly increasing the amount of violence on our screens. And commercials for violent theatrical movies and TV series have become a major source of televised violence.

News broadcasts, in their heightened competitive fervor, are peddling strong doses of murder, muggings, and mayhem as ratings-getters.

In fictional programming alone, we found more than 100 violent scenes per hour across the 10 outlets studied. Well over a third of all the violence (751 scenes) involved some sort of life-threatening assault. Cartoons were the most violent program form, with 471 scenes.

(A note: child experts agree that violent cartoons are inadvisable for very young children, 2 to 5, who may not distinguish between animated violence and the real thing, so they were included in our tabulations. Also, our study shows a glut of super-hero-style cartoons that feature more "human" characters than earlier Tom & Jerry type fare; these realistic cartoons may have an even stronger influence on children.)

Promos for television shows were next (265), then movies (221), toy commercials (188), music videos (123), ads for theatrical films (121), TV dramas (69), news (62), reality shows like "Top Cops" and "Hard Copy" (58), sitcoms (52), and soap operas (34).

The outlet purveying the most violence on that particular spring day was the unaffiliated station: 376 scenes, or one every three minutes. The rest of the list:

WTBS—321 scenes (18 per hour).
HBO-257 scenes (14 per hour).
USA Network—209 scenes (12 per hour).
MTV—202 scenes (11 per hour).
Fox—182 scenes (10 per hour).
CBS—175 scenes (10 per hour).
ABC—48 scenes (three per hour).
NBC—39 scenes (two per hour).
PBS—37 scenes (two per hour).

(WTBS's high total is partly explained by a high incidence of Tom & Jerry-type cartoons and old movies and TV series.)

Unmeasured in our survey, of course, were the many hundreds of hours of VCR-watching that went on in that city on that day—much of it devoted to theatrical films with violent content.

Thus, the study's conclusion: violence remains a pervasive, major feature of contemporary television programming and it's coming from more sources and in greater volume than ever before.

CAUSE

There's no shortage of major studies on the effects of televised violence. Among them: the National Commission on the Causes and Prevention of Violence (1968); the Surgeon General's Report (1972); the National Institute of Mental Health's (1982); and the U.S. Attorney General's Task Force on Family Violence (1984). The NIMH states the consensus: "Violence on television does lead to aggressive behavior by children and teenagers who watch the programs. . . ."

One of the most ambitious and conclusive studies (conducted by Dr. Leonard D. Eron and others) examined a group at ages 8, 19, and 30 in a semirural county of New York State. The findings: the more frequently the participants watched TV at age 8, the more serious were the crimes they were convicted of by age 30; the more aggressive was their behavior when drinking; and the harsher was the punishment they inflicted on their own children. Essentially the same results emerged when the researchers examined another large group of youths for three years in a suburb of Chicago.

And when they replicated the experiment in Australia, Finland, Israel, and Poland, the outcome was unchanged: as Dr. Eron states it, "There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socio-economic levels, and all levels of intelligence."

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[From TV Guide, Aug. 22-28, 1992]

VIOLENCE ON TELEVISION: HOW MUCH VIOLENCE IS THERE?

(By Neil Hickey)

More televised violence than at any time in the medium's history is flowing into American homes. It's coming from many more sources than ever before—home video, pay-per-view, and cable, as well as from broadcast networks and stations. The overwhelming weight of scientific opinion now holds that televised violence is indeed responsible for a percentage of the real violence in our society. What is new is that psychologists, child experts, and the medical community are just now beginning to treat televised violence as a serious public health issue—like smoking and drunk driving—about which the public needs to be educated for its own safety and well-being.

How much violence is there on American television? Is it more virulent now than in recent years? Where is it coming from? What are its effects? What can parents, educators, the industry, and public officials do about it?

To attack those questions systematically, we commissioned a study of one day in the life of television. We also mustered the best experts we could find for a symposium—titled "The New Face of Television Violence"—to explore the import and the seriousness of what seems a burgeoning crisis. To snap our day-in-the-life-of-TV photo, we enlisted the Center for Media and Public Affairs, a nonprofit monitoring company whose business is fashioning statistical portraits of how American society is depicted in the media. We asked for and received a nonjudgmental, bias-neutral content analysis of one typical day. Thursday, April 2, 1992, was chosen for several reasons: Thursday is a heavily-viewed night of television by a wide cross section of America; the prime-time shows on that evening tend to be popular, well-known series. We wanted a weekday rather than a weekend, to avoid sporting events. And April is not a sweeps month.

Thus, during 18 hours (6 A.M.-midnight) on that day in Washington, D.C., the Center taped, tabulated, computerized, and analyzed the programs on 10 channels: the affiliates of ABC, CBS, NBC, Fox, and PBS; one non-affiliated station, WDCA; plus the cable channels WTBS, the USA Network, MTV, and HBO. The program schedules, it turned out, were notable only for their ordinariness: no untypically violent movies like "Rambo" or "Scarface" were shown; even the news on that date was light on violent events such as wars, civil disorders, and local crime.

The results of the study were an eye-opener. In those 180 hours of programming, we observed:

1846 individual acts of violence—purposeful, overt, deliberate behavior involving physical force against other individuals.

175 scenes in which violence resulted in one or more fatalities.

389 scenes depicting serious assaults.

362 scenes involving gunplay.

673 depictions of punching, pushing, slapping, dragging, and other physically hostile acts.

226 scenes of menacing threats with a weapon.

Newer program forms, such as music videos and reality shows, we discovered, are significantly increasing the amount of violence on our screens. And commercials for violent theatrical movies and TV series have become a major source of televised violence. News broadcasts, in their heightened competitive fervor, are peddling strong doses of murder, muggings, and mayhem as ratings-getters. In fictional programming alone—which accounted for 95 percent of the total—we found an average of 185 scenes of violence per channel. That works out to more than 100 per hour across the 10 channels we monitored.

Well over a third of all the violence (751 scenes) involved some sort of life-threatening assaults. Many scenes showed attacks with knives, clubs, bombs, and other weapons. Victims were terrorized and traumatized by all manner of assailants. And violence came in a wide variety of program forms. Cartoons were the most violent, with 471 scenes. (A note: child experts agree that

violent cartoons are inadvisable for children 2 to 5, who may not distinguish between animated violence and the real thing, so they were included in our tabulations. Also, our study shows a glut of superhero-style cartoons that feature more "human" characters that earlier Tom & Jerry-type fare; these realistic cartoons may have an even stronger influence on children.) Promos for TV shows were next (265); then movies (221); toy commercials (188); music videos (123); commercials for theatrical movies (121); TV dramas (69); news (62); reality shows like "Top Cops" and "Hard Copy" (58); sitcoms (52); and soap operas (34). The outlet purveying the most violence that particular spring day was the unaffiliated station: 376 scenes, or one every three minutes.

The rest: WTBS—321 scenes (18 per hour); HBO—257 scenes (14 per hour); USA Network—209 scenes (12 per hour); MTV—202 scenes (11 per hour); Fox—182 scenes (10 per hour); CBS—175 scenes (10 per hour); ABC—48 scenes (3 per hour); NBC—39 scenes (2 per hour); PBS—37 scenes (2 per hour). (WTBS's high total is partly explained by a high incidence of Tom & Jerry-type cartoons and old movies and TV series.) HBO showed "Paint It Black," "To Sleep with Anger," "Tales from the Crypt," and other films.

An important finding of the study is that music videos are a far more fecund source of TV violence than previously imagined. The 144 videos that MTV showed in those 18 hours bore as much violence as the Big Three commercial networks combined, and they came from such youth heroes as Guns N" Roses ("Live and Let Die," "Don't Cry"), Jon Bon Jovi ("Blaze of Glory"), Bruce Springsteen ("Human Touch"), Aerosmith ("Janie's Got a Gun"), Van Halen ("Right Now"), Ugly Kid Joe ("Everything About You"), and Metallica ("Enter Sandman").

CBS was the most violent of the major networks—much of the difference between it and the other two coming from "Top Cops," with its re-creations of violent crimes. An afternoon slate of cartoons and an unusually violent string of prime-time plot lines in series such as "Drexell's Class" and "Beverly Hills," 90210 boosted Fox's total. By far, more violent incidents took place in fiction rather than non-fiction shows, but newer program forms such as reality-based series are now beginning to contribute significantly to television's freight of violence. "Top Cops," "Street Stories," "Inside Edition," "Hard Copy" and "A Current Affair" accounted for 58 violent moments; the news programs added 62 more.

The makers of commercials and promotional announcements for theatrical movies and TV shows, it now appears, have clearly adopted the tactic of utilizing the most action-packed moments of their entertainments to grab viewers' attention. Thus, we observed 386 scenes—containing violence—in ads for movies such as "Thunderheart," "The Power of One," "McBain," "Newsies," and "The People Under the Stairs," and in promos for TV series like "The Commish," "Columbo," "Knots Landing," "Mann & Machine," "Hunter," "Mystery," "MacGyver," "Counterstrike," and "Dallas." Serious forms of violence topped the list of the most frequently presented modes of violent behavior.

| | Number of scenes | Percent of total |
|---|---|---|
| Serious assaults (excluding use of guns) | 389 | 21 |
| Gunplay | 362 | 20 |
| Isolated punches | 273 | 15 |
| Pushing/dragging | 272 | 15 |
| Menacing threat with weapon | 226 | 12 |
| Slaps | 128 | 7 |
| Deliberate property destruction | 95 | 5 |
| Simple assaults | 73 | 4 |
| All other types | 28 | 1 |
| Total | 1,846 | 100 |

Since most of the programming in our one-day snapshot of television went out nationally via broadcast and cable networks, we deem it generally representative of what the country as a whole saw on that day. One reason for conducting the study on District Cablevision in Washington, D.C.: it's the hometown TV supplier to such major lobbying groups as the National Association of Broadcasters, the National Cable Television Association, the Association of Independent Television Stations, and the Radio-Television News Directors Association, as well as the Corporation for Public Broadcasting, the Federal Communications Commission, Congress, and the White House. We now have a fair and documented idea of the violence quotient that those influentials are seeing every day on their TV screens.

Unmeasured in our survey, of course, were the many hundreds of hours of VCR-watching that went on in that city on that day—much of it devoted to the theatrical films with violent content. Thus, the study's conclusion: Violence remains a pervasive, major feature of contemporary television programming; and it's coming from more sources and in greater volume than ever before.

DOES TV VIOLENCE CAUSE REAL VIOLENCE?

There's no shortage of major studies on the effects of televised violence. Among them: the National Commission on the Causes and Prevention of Violence (1968); the Surgeon General's Report (1972); the National Institute of Mental Health's (1982); and the U.S. Attorney General's Task Force on Family Violence (1984). The NIMH states the consensus: "Violence on television does lead to aggressive behavior by children and teenagers who watch the programs. . . ."

One of the most ambitious and conclusive studies (conducted by Dr. Leonard D. Eron and others) examined a group at ages 8, 19, and 30 in a semirural county of New York state. The findings: the more frequently the participants watched TV at age 8, the more serious were the crimes of which they were convicted by age 30; the more aggressive was their behavior when drinking; and the harsher was the punishment they inflicted on their own children. Essentially the same results emerged when the researchers examined another large group of youths for three years in a suburb of Chicago. And when they replicated the experiment in Australia, Finland, Israel, and Poland the outcome was unchanged: as Dr. Eron states it, "There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socioeconomic levels and all levels of intelligence."

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[From TV Guide, Aug. 22-28, 1992]

THE EXPERTS SPEAK OUT

To learn the latest, the best, and most authoritative thinking on the subject of violence on television, TV Guide invited a blue-ribbon panel of experts (see opposite page) to convene in New York before an invited audience in the auditorium of the Center for Communication, a nonprofit media forum that cosponsored the event.

Neil Hickey, senior editor of TV Guide, was the moderator. A transcript of the panel's remarks, edited for space, follows:

TVG. The subject of medial violence is one that's suddenly brand-new again. Very little research exists on the ramifications of the televised violence that's arriving on home screens from such relatively new sources as home video, pay-per-view, direct broadcast satellites, premium channels, and others.

According to the U.S. Justice Department's most recent crime report, the United States has one murder every 22 minutes, one violent crime every 17 seconds. France, to take just one example, has two homicides per 100,000 population. The United States has 9.4. The U.S. murder rate quadruples that of Europe's and is 11 times higher than Japan's. CBS News once delivered a anecdotal piece of evidence about how our society changed in one 40-year period: "In 1940, the seven top problems in public schools as identified by the teachers were: talking out of turn, chewing gum, making noise, running in halls, cutting in line, dress-code infractions, and littering. In 1980, the top seven problems in public schools were: suicide, assault, robbery, rape, drug abuse, alcohol abuse, and pregnancy.

Let's start our discussion with a brief quote from a 1992 survey by the American Psychological Association called "Big World, Small Screen." It says: "Since 1955, about 1000 studies, reports, and commentaries concerning the impact of television violence have been published. . . . The accumulated research clearly demonstrates a correlation between viewing violence and aggressive behavior—that is, heavy viewers behave more aggressively than light viewers. Children and adults who watch a large number of aggressive programs also tend to hold attitudes and values that favor the use of aggression to solve conflicts. These correlations are solid." Any comment on that?

SLABY. Yes, the research really shows that television violence is a contributing cause to violence in our society. Years of research evidence have gone into establishing television violence as a contributing cause, and the word "cause" is not used lightly by scientists. It's now used strongly by almost all the professional groups that have examined the research evidence.

TVG. Then, thank heavens, we don't have to plow through all those 1000 studies to make the point here that a well-established link exists between violence on television and aggression behave in real life.

GERBNER. There's no question that the cult of violence makes a contribution that occasionally triggers violent behavior. Television, in my opinion, is one of the factors, but to attribute the violence in our society to television alone is a form of scapegoating—considering that we have an undeclared civil war in our cities, growing joblessness into which our young people are graduating, all of which has a direct relationship to the sense of anger and frustration that many people feel; all of which relates to our using violence as a solution to problems by people who otherwise cannot get ahead or get attention.

Also, television trains us to be victims. Our studies, as confirmed by many independent investigators, show that the most pervasive, long-term consequence of growing up in a media cult of violence is a sense of perva-

sive insecurity, what we call "the mean-world syndrome." It's a sense of feeling vulnerable, of dependence, of needing protection. So you have most people feeling dependent and victimized, and others whose best, or sometimes only, opportunity to get attention or get ahead is to commit violence.

TVG. Senator John Glenn, during hearings on violence prevention in March of this year, said, "The United States is the most violent 'civilized' country in the world." In 1991, we had 26,250 murders, an all-time high. Let me also quote briefly from Dr. Prothrow-Stith's book *Deadly Consquences:* "Just as our nation has more violent crime than any other industrialized nation. so too is our popular culture more violent than that of other countries. Our movies, our broadcast talk, our television drama, our children's TV, our toys, our sports, our music for adolescents, our broadcast news are awash in violent words and violent pictures. In the media world, brutality is portrayed as ordinary and amusing."

PROTHROW-STICH. I think that the impact of television violence is small on most of us, but it's quite large on some of us. And I agree that it's one of the factors, particularly among urban poor children who don't have male role models countering the TV superhero who's solving problems with violence. I think for some it is a significant factor and I thing the impact is pretty direct.

TVG. Just a bit more quotation before we push on. Dr. Leonard Eron of the University of Illinois is chairman of the Commission on Violence and Youth of the American Psychological Association. In testimony before Congress this year, he said that there is no longer any doubt that viewing a lot of televised violence is one of the causes of aggressive behavior, which may lead to crime and violence in the society. He also said that television violence has an effect on young people irrespective of age, gender, class, or intelligence level. He added: "The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country. . . . The casual effect of television violence on aggression, even though it is not very large, exists. It cannot be denied, or explained away. . . . We have come to believe that a vicious circle exists in which television violence makes children more aggressive, and these more aggressive children turn to watching more violence to justify their own behaviors. . . . Practically, it means that if media violence is reduced, the level of interpersonal aggression in our society will be reduced eventually. . . ." He estimates that fully 10 percent of the actual violence in our society is attributable to the viewing of violence on television. It's also been estimated, by others, that by the time a child graduates from elementary school, he will have witnessed at least 8,000 murders and more than 100,000 acts of violence on television.

SLABY. Recently, we've begun to look at several different types of effects: there's the "aggressor" effect, which may increase the likelihood that someone will become aggressive. But also there's the "victim" effect, as Dr. Gerbner has pointed out—the idea that you become fearful and see the world as a mean place, and perhaps take up arms to protect yourself and thus become involved in violence. A third is the "bystander" effect—being a passive accepter of violence, or actively cheering it on, or becoming emotionally or otherwise desensitized to it. And there's a fourth effect that's now being identified: namely, that watching violent television sometimes leads to an increased appetite for more violent activities—joining gangs or otherwise involving oneself in violence.

WEINMAN. I think the first thing we need to do, before we can continue to talk about TV and violence, is define what we mean by "television." We're accustomed to having a box-like thing that we call the television set. For years, it basically brought us programs mostly from ABC, CBS, and NBC, plus some independent stations and PBS. But now what we have, I believe, is gigantic confusion. The same box also delivers cable programs, plus shows from new networks like Fox.

TVG. This symposium, for a good reason, is called "The New Face of Television Violence." And we're defining "television" as anything and everything that comes through the television screen into the home, from whatever source: the networks, local stations, cable, premium channels like HBO and Showtime, pay-per-view channels, direct broadcast satellites, laser disc players, videocassette players. There's more violence streaming through the television set just in the last few years—because several of these sources are, effectively, brand-new—than ever before in television's history. Local news programs, to attract ratings, continue to traffic in homicide, bloodshed, gun battles, riots, arson, assault. Music videos on networks like MTV show heavy-metal groups engaging in brutal acts, and rap groups formenting violence. The new courtroom television channel televises live the trial of Jeffrey Dahmer, with the most lurid descriptions of his bestial acts.

WOLF. I hate to be the fly in the ointment here, but I've seen a lot of research over the last 15 years, and to say that the case is closed on the effects of TV violence is incredibly misleading.

WEINMAN. That's right, there isn't really a consensus. I mean there's a giant amount of questions about whether there's a correlation, whether there's causation, whether if there's a causation it's imitative or desensitizing, which direction it's in, and above and beyond that, what are the specific programs researchers are looking at.

When you look at last year's TV landscape, for example, the programs that children were watching were things like Full House—very simple sitcoms. There's actually very little violence on the networks according to operational definitions of television.

CHARREN. How about cable?

WEINMAN. Cable is a different subject.

TVG. Let's point out here that ABC, CBS, and NBC have standards and practices departments, headed by people like Dr. Weinman, which give a certain level of protection for the viewer against egregiously violent scenes. But premium-cable channels, pay-per-view channels, and many basic-cable channels do not, and certainly the home-video industry does not. So a lot of violent programming is pouring through those sources, completely unedited in most cases. Dr. Althea Huston, who is co-director of the Center for Research on the Influence of Television on Children, at the University of Kansas, testified before Congress that " . . . cable and videotape recorders . . . have altered our television experience drastically . . . Children and adults have easy access to R- and X-rated films, many of which contain very graphic, explicit violence. Children aged 10 and 11 regularly watch films, such as 'Friday the 13th' and 'The Texas Chainsaw Massacre,' that are intended for an older audience." She went on to say, "I do not mean to suggest that violence on broadcast television is no longer a problem. It is . . . But cable and commercial videotapes have introduced a new level of more serious violence, often with sexual overtones, that makes this issue more pressing than ever . . . " And, of course, there is practically no research yet into how these new levels of violence on cable and home-video are affecting us.

CHARREN. I wanted to say that whether or not TV violence has an effect is irrelevant, really, in terms of strategies. Even if you can prove that it has an effect on causing you to be more aggressive, what are you going to do? I have taken the position for 24 years that, yes, it has an effect, but in a democracy you still shouldn't censor it. So not being a researcher, I don't care whether it has an effect or not.

GERBNER. Well, I do. And not only do I care whether it has an effect, but I care about trying to characterize accurately this new age into which our children are born. There has never been a situation like this. They are born into homes in which the TV set is on seven hours a day. They start as infants. Most of the stories they hear are not told by the parents, the school, the church, or neighbors. They are told by a handful of conglomerates who have something to sell.

That has a powerful effect. An average of six to eight acts of violence—physical, overt violence, hurting or killing people—per hour in prime time. Two entertaining murders a night. And children's television programming on the weekend is saturated with violence. The number of cartoon programs has increased over the last three years from 31 to 40, and the number of violent acts per hour has risen from 25.5 in 1988 to 32 last year—an all-time high. It's all supposed to be funny. But humor is the sugar-coating that hides the pill of power, of how to put people in their place. There has never been anything like this. They may have been some more bloodthirsty years, but after hearing the figures, I doubt it.

But there's never been the type of expertly choreographed brutality, images of violence, that we have at the present time. It surrounds us from infancy. This has never happened before. There's no question it influences the way in which we've been socialized into our roles. It has an atmosphere, an environmental effect. This is a symbolic environment. And what we're dealing with is a kind of pollution, the byproducts of an industrial civilization that we have to understand and take care of, and let's not deny it.

LEONARD. I'd like to make one point. I agree with a great deal of what Dr. Gerbner is saying. But look, this particular culture has always been extremely violent compared to European nations. Before there was ever any television, our kill ratio was much higher than England's. The way we dealt with our labor problems was a lot more violent. The Ku Klux Klan was a lot more violent. The cult of the gun has been extremely important for our pulp fiction from the very beginnings of the country. The cult of the frontier, the cult of the superhero, have been part of our popular literature. The old-time cowboy movies, which you can now see almost every night of the week on TBS, are one shooting after another.

Do we have more explicit violence, and is that better or worse? I don't care; I really don't care, because I don't think it's nearly as important as the other things going on in this society that encourage violence. I'd like to point out that the only country in the world that watches more television than the United States is Japan. The programs are surprisingly violent. It is samurai, it is the science-fiction, Godzilla thing. Japanese pop-

ular culture is full of the vilest pornographic comic books that you have ever seen—unlike anything we could find here, even behind the counter. The Japanese movie industry is the major distributor throughout Asia of rape and snuff films.

And yet all this watching of television and all this emphasis on violence doesn't have the effect of murder and mayhem in the culture at large that it does in our country. And I think you have to look for the causes. It's not TV that's killing people. It's guns. It's a drug epidemic, and it's the fact that since 1980 we've cut more than 60 percent of our federal aid to big cities and we've allowed our public school system to degenerate into overcrowding and inadequate teaching. We've thrown away whole portions of this society, and that they should respond violently makes sense.

I noticed the week after all that violence in Los Angeles that for the first time I was seeing very interesting and heretofore unknown black people on my TV screen talking about aspects of the society that I'd never heard about. Violence did one thing. It got those people onto the TV screen for the first time that I've seen them! And I was very glad for it.

GERBNER. We did a comparative study and found that Japanese violence, unlike ours, is not happy violence; it's painful, it's awful, and it teaches a very different lesson.

WOLF. I just want to put something in perspective here, because again we seem to be devolving into knee-jerking reactions about this. Violence as entertainment has been around as long as we have. The ancient Greeks—if you look at the myth of Medusa, it wouldn't be allowed on prime-time television. There's nothing more violent in the history of literature than when Perseus took his mirror and looked on the face of Medusa so that he would be protected from actually experiencing the violence.

Now we can get into all kinds of psychological claptrap about why people enjoy watching drama or melodrama that has life-and-death effects. I am not claiming that fictional violence is what's happening in the world, but in reality, it is. And people have wanted it from the Middle Ages, from the Greeks to the Romans to Milton, Shakespeare, and everybody else. "Hamlet" is one of the most violent stories ever conceived. But people have wanted to see this and they will continue to want to see it.

The real problem here is—I have an 8-year-old and a 5-year-old child. They've never seen any of the shows I've ever produced. They shouldn't be watching them. They're not allowed to watch Saturday morning cartoons.

PROTHROW-STITH. Why not?

WOLF. Why not? Because they're extremely violent.

PROTHROW-STITH. Do you think it has an impact on them?

WOLF. I don't know. But I don't think that 5-year-old little girls should be watching superheroes beat the crap out of people.

PROTHROW-STITH. Should little boys?

WOLF. The issue here is, when are you going to stop blaming the media and start looking at the home environment, and the fact that parents are supposed to monitor what their children are watching?

PROTHROW-STITH. It's not an either/or. It's not guns or media or parents or poverty.

WOLF. No, but when you blame television in a society that is the most violent on earth, that has taken the six-shooter and made it an object of erotic desire for a hundred and fifty years, to claim now that it's television that is setting people on this course from the time they were born is unrealistic.

GERBNER. This is argument by setting up straw men to knock them down. We were very careful to point out that we are not blaming television alone. Television is, at best, a contributing factor. Let me offer the Gerbner theory of the three-legged stool. You cannot ask which leg of a three-legged stool makes it stand up. It takes all three legs. You remove any one of the legs and the stool will collapse. We're dealing with a syndrome to which there are many contributing factors. We happen to be talking about just one of them, but let us not assume it's the only one, or, under all circumstances, the primary one. To make it the only one is, I agree, an evasion of our responsibility for the condition of our cities. Equally harmful is to say that it makes no contribution. It's one of the legs of the three-legged stool. But the notion that, sure, there is violence in fairy tales, there is violence in Shakespeare, and therefore we shouldn't be concerned about it, is a powerfully misleading notion.

We have to make a distinction between violence that is selectively used, violence that is handcrafted to show its tragic consequences, to show the pain and to show the suffering and the tragedy that follows. That's not what we're talking about. We're talking about mass-produced, cheap, industrial violence that's injected into every home whether they like it or not, for children to grow up on and to condition their view of the world. That is an entirely new phenomenon. It's not like Shakespeare, it's not like fairy tales. It's not even like Westerns. And that, I think, is the critical, or at least the most troublesome, aspect of the situation.

CHARREN. Let me say, please: here, I am the child activist. Let me say that this is a price you pay for freedom of speech. What we have in this country now is a diverse system of getting programming into the home. We have cable, we have home-video, we have fiber optics coming with 200 channels. When you have that kind of diversity of sources, you're going to get some stuff that's terrible. The fact is that, for adults, the top 10 programs on network television always look kind of benign to me.

The fact that children are attracted to ghastly programs is true. When you let them, they will rent from the video store the worst bloody stuff that ever hit the market. And that diversity is where we're at now. And it's all very well and good to talk about this incredibly violent culture that we have, but I don't know how we can make all of this stuff coming onto our screen completely benign. You have a lot of new sources feeding us, some of which are bad, some of which, like CNN and C-SPAN, are very good.

WEINMAN. I just want to piggyback on something said earlier. There are many sociologists in this country who have pointed out that what we're really seeing is a culture in despair, an underclass that doesn't feel they'll ever have the satisfaction of buying a lovely home, of having the fabulous paycheck, the lovely office, and everything that goes with that. So picking up a gun is not simply a solution to a problem. It's a quick mechanism to some level of satisfaction. And that is a terrible tragedy in our culture. That's a much larger tragedy than the issue of television. We could all shut off our TV sets for a year and see if the violence disappears.

One of the easy ways that kids used to feel adult-like years ago was simply the first cigarette. Unfortunately, when adulthood appears that it's going to come without a job, many youngsters are picking up the gun, are engaging in violent activities—not as a solution to any particular problem, but as the way into adulthood.

SLABY. Well, beyond all else, television is a teacher. We know that because advertisers pay several billion dollars a year in order to get the teaching effect and to sell their products. So it's undeniable that it's a very powerful, pervasive, and effective teacher, particularly of young children. That's not to say that there aren't other lessons that children learn in society, in their homes, from their peers, and so on. But we can't deny that television does have this power and this effect. The real question here is, what could television be doing that it isn't doing? And the tragedy, I think, is that it is such an effective and powerful teacher, and it's teaching the wrong message to young children.

TVG. In that connection, Dr. Carole Lieberman, who is chairperson of The National Coalition on Television Violence, has pointed out that since everybody agrees that *Sesame Street* can teach the alphabet, why don't TV people admit that children can learn the ABC's of murder and mayhem from gratuitously violent entertainment? "Violence sells," she says. "So does crack cocaine. Does that make it OK?"

GERBNER. I want to use what Peggy Charren said as a springboard, because—although it hurts me, and because I advocate the same premises of freedom and diversity—I come to the directly opposite conclusion. First of all, most of the highly-rated dramatic programs are nonviolent. Then why is violence produced? I'll tell you why it's produced. Because income doesn't come from popularity. Television income comes from cost-per-thousand. If you can cheapen the product, you don't need to have the most popular programs and you can still make money.

So violence is a cheap, industrial ingredient. It reduces time for writing. You talk about the proliferation of channels as diversity. Well, what if most of these channels program the same cheap type of fare? You find that the actual content has been reduced in diversity. And what they're getting is not the most popular product.

TVG. In the June 10, 1992, issue of the Journal of the American Medical Association, a doctor named Brandon S. Centerwall says that since television "is in the business of selling audiences to advertisers," they're mostly interested in attracting big audiences, and matters of social responsibility are not high on their list of priorities. "And there is no formula more tried and true than violence," he writes, "for reliably generating large audiences that can be sold to advertisers."

Senator Paul Simon of Illinois has claimed that the competitive pressures on broadcasters have "spawned an 'arms race' in TV violence from which none will retreat for fear of losing ratings points. As in all arms races, the public is the loser."

WOLF. I don't know who Dr. Gerbner has been speaking to, but what he's saying is absolutely fallacious. The most expensive form of entertainment ever devised is the one-hour television drama. If he is talking about the reality shows, and people doing those cheaply, that is a different discussion. they are news-oriented, reality-based. But to say that people who make fictional dramas are putting violence in because it's cheaper is just untrue!

GERBNER. I recognize that some fictional dramas and motion pictures can be very expensive. What I'm saying is——

WOLF. There are no cheap hour dramas on television.

GERBNER. Well, cheaper per capita.

WOLF. Well, that's incorrect, Doctor!

GERBNER. It's very cheap per capita. It's a good investment and that's why it's so profitable. It's profitable to put on violence instead of other, more diversified, creative solutions to problems that require more talent, more time, and more money. Violence is a formula that's relatively cheap to inject into programs.

WOLF. That is incorrect, and I think that's a very simplistic statement!

GERBNER. Then it seems we disagree, right?

LEONARD. Writers are cheap, but the exploding cars, they're very expensive.

CHARREN. It may be the most expensive, but it's certainly some of the most profitable.

WOLF. Excuse me, that's also incorrect.

WEINMAN. That's absolutely incorrect.

WOLF. The most profitable shows on television are situation comedies and reality shows, not the hour dramas. I do these shows, I know what the costs are.

PROTHROW-STITH. Don't tell me you're producing things that are not profitable. Miami Vice?

WOLF. Miami Vice has been off the air for three years. I used to do it.

PROTHROW-STITH. Was it profitable?

WOLF. No, it is not profitable. Excuse me, it is not profitable.

PROTHROW-STITH. When it was on the air, it wasn't profitable?

WOLF. It made profits for the network. I work at Universal. I worked on that show.

PROTHROW-STITH. What are we saying here, it made profits for the network?

WOLF. I don't know. You're throwing out statements here that have no . . .

GERBNER. Did it make money for you?

WOLF. No. I made a salary, but I certainly have never seen a penny of profits.

PROTHROW-STITH. Well, that's money. But somebody profited from Miami Vice being on television.

WOLF. The network. And it made not as much as Cosby or any of the other sitcoms.

PROTHROW-STITH. Let me move to another aspect—to the different way we think of sex in the media versus violence in the media. Do we know that a 5-year-old watching intercourse is going to be harmed in some way? No, we don't know that. There are no casual relationships established. Yet we make sure, as best we can, that sex is not portrayed to our children. We don't do that with violence. People are making money off of violence and are callous about it, and I think we need to start calling some people to task.

It's helpful for me to have a public health perspective on this problem, because I can look at media violence as a risk factor. It's not the only risk factor. Poverty is a risk factor, and poor children watch more television. But I wouldn't be surprised if we found out that it's the four hours or more per day of television-watching that poor children are doing that's a significant part of the problem of violence. So I think we've got a big issue here. I use smoking, and the effort to prevent smoking, as an analogy. We went from thinking it was the most glamorous thing in the world to finding it offensive and unhealthy. I think we can do that with violence. I like the question, what can television do?

WEINMAN. Well, first of all, we can't continue on this premise that the reason we see violence on television is money. There are responsible people at all three networks who are not callous. That's why we have in place a set of guidelines that deal not only with sex, but, very specifically, with violence. One of the seminal, important issues we deal with every day is, how do you find a balance between sanitizing violence and sensationalizing it? We come from a very responsible point of view.

And I think we need to understand that the only TV outlets that have people in very tough jobs every day making informed and yet subjective decisions about violence are the three networks. That is the only place where viewers can depend on any level of comfort. I'm not saying complete comfort, but they know that what is coming through that tube from ABC, CBS, and NBC has been screened by people with a moral point of view. Do we make mistakes? Yes.

The bigger issue is that 6-year-olds are going in to see "Terminator 2" and no one is stopping them; that 13-year-olds are renting slasher movies. Critics are not coming down on the kinds of productions that Mr. Wolf makes. They're talking about slasher movies that kids are renting in the local video store, and that kids are able to hit the pay-per-view button and get similar material.

You bring up Miami Vice. The USA Network has shown one episode of Miami Vice that we never put on the air. We lost $900,000 because we thought, for a whole bunch of reasons, that the content was not handled well and we did not want to take responsibility for it. And that appeared unedited on the USA Network. HBO movies are uncut. At 8 at night there are R-rated movies. I don't want to appear too defensive, but when you talk about the TV landscape—about bombs and R-rated movies—it gets back to the question: where are the responsible people who have guidelines and are trying to do the right thing? Only NBC, CBS, and ABC.

TVG. There's a little booklet called Program Standards, published by NBC, and I know the other networks have similar ones. It says, in part: "Violence should not be depicted as glamorous or shown as an acceptable solution to problems. The negative consequences of violence should be stressed. To mitigate violence, action sequences should emphasize unrealistic settings, fantasy weapons, and superhuman feats . . . Particular care must be taken in scenes where sex is coupled with violence. Rape must be portrayed as an act of violence, not a sexual act." In view of those guidelines, I'd like to know how the interaction works between Dr. Weinman and Mr. Wolf. Dr. Weinman's job is to review Mr. Wolf's scripts for objectable content before they get on the air. Now, he is a producer of very, very successful television programs. In effect, he's an 800-pound gorilla.

WEINMAN. Nine hundred, this year.

TVG. OK, nine hundred. So he comes to you and says, "Look, if you take this violent scene out, you'll ruin my show! I'm going to have you fired!" What happens then?

WOLF. Let me answer, because it's very interesting. I think that what's instructive is that Roz and I have never failed to reach agreement, that there have obviously been spirited discussions.

WEINMAN. Very late at night.

WOLF. Very late at night, very early in the morning. It goes on and on. And some episodes have taken literally weeks to get into shape for broadcast approval. My feeling is, if you're going to show someone being shot, then show them writhing on the ground in pain, see them in a hospital three days later, still writhing in pain. Don't make it glamorous. Don't have people get shot and then seemingly wake up the next morning and their arm isn't even in a sling. The cops on Law & Order will go five years without ever firing a gun. We deal with the effects of guns on that show. If anybody thinks the networks are allowing producers to put anything and everything on television—that's fallacious. It's a 150-channel universe now, and it's wrong to tar the Big Three networks, who are, I believe, the only ones acting responsibly.

GERBNER. Let us take a few seconds to pay our respects to producers and creative people, the ones on the front lines of television practices, for the wonderful work they are doing. They represent the conscience of the networks and they often do magnificent programming. But let us not let the system itself off the hook. Don't forget that most American television series and motion pictures are produced for the global market. More than half of total revenue comes from outside the United States. And in the trade, the slogan is, "Violence travels well, humor doesn't." Humor is culture-bound; it needs translation. But violence doesn't need much explanation. It has some kind of inner relevance to human interests, and therefore from the point of view of global marketing, is an excellent commodity and highly profitable.

SLABY. There's a prior question here that I'd like to come back to. It's all well and good to hear about Roz and Dick's midnight talks about what is edited out and what is not edited out. But the prior question is, who controls the airwaves? One little-known fact is that the American people own the airwaves and they don't know it.

The networks sometimes try to foster the notion that they're giving people just what they want, and that television is the greatest democratic ballot box in the United States. The fact of the matter is, this is a myth. It's a myth that we control the airwaves by turning off our set or switching channels. It's a myth because we're not all Nielsen families. It's a myth that every vote counts equally because what really counts are the demographics of the viewers. Poor viewers don't count. Children don't count, except on Saturday mornings.

TVG. Dr. Prothrow-Stith, you mentioned in your book Deadly Consequences that children in inner cities watch more television because they have little money to do anything else, the streets are dangerous, and there are fewer recreational opportunities.

PROTHROW-STITH. I think one of the things that came through quite clearly in the Los Angeles revolt was that revenge was seen as necessary and anger was justified. They were basically teens who have learned that if you think you are on the side of right and have a cause to justify, violence is the way to do that.

WEINMAN. Where did they learn that from?

PROTHROW-STITH. That's what characters like Rambo do. When they get angry, they blow people away. I'm thinking specifically of the Rambo movie where his daughter was kidnapped and he blew away close to 300 people getting his daughter back.

SLABY. That was "Commando," not "Rambo."

LEONARD. Are you saying they did that because they had seen movies like "Rambo"?

PROTHROW-STITH. What I'm saying is, that they have learned that violence is the way to solve problems. And the challenge I would put to the TV industry is to show, in an appealing way, how people can solve their problems and achieve success nonviolently.

TVG. That rarely happens these days in the big-hit theatrical movies, which every-

body agrees are the most violent in the history of the film industry. A New York Times movie critic counted 74 dead in "Total Recall," 81 dead in "Robocop 2," 106 dead in "Rambo III," and 264 dead in "Die Hard 2." [In early August 1992, an accused serial killer of six women in New York state said he was copying scenes in "Robocop 2."] All those movies show up in home video. All five of the Oscar-nominated films this year had scenes of violence, some of them extraordinarily vivid: "The Silence of the Lambs," "Bugsy," "JFK," "The Prince of Tides." And "Beauty and the Beast" was by no means a nonviolent movie. Those, too, are starting to appear in video stores.

GERBNER. But let's go back to the Los Angeles situation. I think Ted Koppel was right, for once, anyway, when he said that live, unedited telecasting of the riots spread the virus from one part of the city to another. I think it was done in a reprehensible way. I think it's done for ratings. I think it's something they have to think about very seriously. The riot took place in the context of a cult of violence, of a civil war in our inner cities; and the lesson for broadcasters in such situations is to be very careful about live, unedited, real-time telecasting because it makes people react instantly in ways that can be exploited.

WOLF. It's chilling what you're suggesting. This is out and out censorship.

CHARREN. There's a point to be made about the looting that went on in Los Angeles and how that relates to television. The advertising that interrupts most TV programs conveys the message that everybody can afford these products. But most of those inner-city people can't. And a lot of those people who left their houses and looted stores were not reacting to the Rodney King tape, but were saying, "Now I can get mine. Where is it written that I can't have all these things that television tells me I need, but which I can't afford?"

WEINMAN. But how much power does television really have? I, for one, don't believe it has as much power as our academic colleagues would like us to believe. I wish it did, because some of our advertisers would be a hell of a lot happier than they are.

WOLF. Commercial television exists as a life-support system for commercials. That's why it's called commercial television. The desire for objects advertised on television is much more destructive to children and adolescents than it is for adults. Adults do have some discriminatory ability. We see a Rolls-Royce advertised on television, but we're not going to go racing out and buy one.

But the bulk-loading of commercials in children's programs is an enormous problem. And maybe this is paddling my own oar, but I think that's much more destructive to children than violence on TV late at night. The children's shows on Saturday morning are a different issue. They are too violent, and that's something that has to be corrected, but I don't know how you do it. Not legislatively, because that's censorship.

TVG: Speaking of cartoons, somebody has suggested that the Rodney King jury may have watched too many "Tom & Jerry" cartons as kids, and as a result they didn't think that bashing somebody with a stick really hurts. So they acquitted the police. There's also a feeling that Rodney King may have seen so many Burt Reynolds movies and The Streets of San Francisco episodes that he thought car chases with cops are fun.

But I want to ask Dr. Weinman about the NBC series I Witness Video. There are something like 16 million camcorders in consumers' hands right now, and some of that amateur tape shows up on local and national television, and some of it is quite violent. It's a whole new source of TV violence. When I Witness Video came on NBC last February, it showed a replay of murders that had been captured on tape by amateur camcorder operators. We wrote about it in TV Guide at the time, saying, "For the first time in TV history, a major network started programming death as entertainment." How about that, Dr. Weinman?

WEINMAN. It doesn't relate to my department. That's a program that is produced under the NBC News rubric, with journalists making judgment calls on what they think is solid programming. I think the whole question about tabloid, reality-based programs is a whole other issue.

TVG. Yes, and they are a new and extemely popular program form, which very often show vivid scenes of violence. Series like America's Most Wanted, Unsolved Mysteries, Top Cops, Inside Edition, A Current Affair, Hard Copy.

WEINMAN. I think so, but the only good news, I think, is that there are very few kids watching those kinds of programs.

TVG. What does it tell you that, except for 60 Minutes, the most popular programs in the 1991–92 television season were all sitcoms and thus almost completely nonviolent? Roseanne, Murphy Brown, Cheers, Home Improvement, Designing Women, Coach, Full House. Since comedy is so popular, why telecast violence at all?

LEONARD. As much as I have my doubts as to how important television violence is to violence in the culture at large, I have my doubts as to how important television is to the culture at large. I'd like to see Dr. Gerbner do a study—similar to his violence profiles—on how much hugging there is on television. Because I think that hugs are all over prime time, perhaps far more than they are in our own families.

I would like to see a study made of nonviolent conflict-resolution programs like M*A*S*H, obviously one of the most successful programs in the history of television. It's on twice a day, every day, everywhere in the country. And yet, we're not the least bit more pacifistic in the culture, as far as I can tell.

So if we're talking about what happens on television and how it influences the culture, we have to talk about all the things that are on television. We surf, we pick and choose. We want to laugh sometimes, we want violence and quick and easy solutions at other times. We want news, or we want the greatest of all violence, a hockey game.

TVG. Yet another source of TV violence, and a fairly recent one, are music videos of the sort played on MTV by groups like Guns N' Roses and N.W.A. Dr. Prothrow-Stith has written that "the subjects of heavy-metal songs are sex, violence, death, Satan, and alienation. The creators of heavy metal and rap are the first generation nurtured on television's steady diet of fictional and non-fictional mayhem." She adds that "in rap song after rap song, young black men brag about owning guns, using guns and killing" and that "sex, violence, and black pride are the most common subjects of rap" songs. "As in heavy metal," she says, "women are sex objects and the objects of rage." There aren't any studies showing cause-and-effect with music videos, but what do you advise?

PROTHROW-STITH. My favorite strategy is the strategy of making that sort of thing unpopular. If I didn't have the smoking, the cholesterol, and other public-health successes in mind, it would seem unrealistic. I think about our efforts around drunk driving. It was a grass-roots effort, saying, not only is this not funny, we want the TV industry to help through sitcoms and other shows to teach our children that this is bad and dangerous behavior.

So I think we can make violent music videos unpopular. People recognize that the music itself is nice, upbeat, kind of bopping music. The lyrics, though, are often horrible.

TVG. What about Michael Jackson's video in which he bashes and destroys a car with a crowbar for no apparent reason?

PROTHROW-STITH. Wasn't there a public outcry about that that caused them to edit the video?

WOLF. No, it was his grabbing his crotch, not destroying the car.

CHARREN. Yes, the public did scream bloody murder about it. They're more concerned about their Jaguars than their children.

TVG. I happen to know the answer to this question, but is there anybody on this panel who favors formal censorship of TV programs to minimize violence?

GERBNER. The only censor we should really speak to is Dr. Weinman.

WEINMAN. I don't want to become pedantic, but I don't think that what I do is censorship. It's not dissimilar from what happens in the publishing industry every day, and that relates to taste. We are running a commercial business in which we are trying to be responsive to our audience. Fortunately, it's a fairly easy thing to do in some ways, because every morning you get the ratings and you know how many people watched your shows and whether or not they liked them.

There is no question that if we were simply trying, in a crude way, to put on whatever the marketplace would bear, that we would air very different sorts of programs. We're in the business of making certain that, with the knowledge we have, we're putting forth programming that we believe to be responsible. That's very different from government censorship, and censorship of news.

WOLF. Three years ago, several producers, myself among them, were approached by a network—specifically. NBC—and asked whether we wanted them to do away with the standards and practices department. I was quite vehement about it. No, I didn't want that, because, for better or worse, I don't want that responsibility. I don't want the blame. And I don't consider it censorship. I consider it a business decision, and a way to make sure that the product has the most chance of staying on the air. There is a difference between governmental intrusion into the broadcast process and broadcasters making sure that their own house is in order for business reasons.

TVG. But is everything with regard to the violence issue done merely for a business reason? Is there a moral issue involved here, or is everything just economics and money?

WOLF. I think that most producers of shows that have survived have a kind of internal moral gyroscope, so that they are not just catering to the basest instincts of the audience. This isn't bread and circuses.

CHARREN. The thing is, censorship would be terrific if I made all the decisions about what goes on and is taken off.

TVG. Peggy Charren, you were one of the people principally responsible for the Children's Television Act of 1990, which requires that TV stations, as a condition of their license renewal, report what positive steps they've taken to air worthwhile children's programs. Can that new law be used to reduce violence in children's programming?

CHARREN. No, the Act cannot be used to be content-sensitive. That's not the kind of law I would have tried to put in place through Action for Children's Television. It's too much a question of judgment. You know—which program passes and which program doesn't. I think that you can't have the government making content-sensitive regulation, and that's what it would be.

On the other hand, there are things we can do to educate parents to be more careful about what their children watch. I'm trying to put through—and I think it may even work—a media-literacy merit badge for the Boy Scouts and Girl Scouts. It's a way to teach kids that the violence you see on television is not the solution to problems.

GERBNER. Well, there is another law on the books, which may or may not provide an opportunity, and that's Senator Paul Simon's bill, formally called the Television Violence Act. What it does is provide an exemption for the networks and cable companies, for a period of three years, from any prosecution under the antitrust laws if they agree to some kind of self-regulatory mechanism pertaining to violence. We're halfway through that three-year period, and I think that this fall, the networks and cable companies are going to make some kind of a progress report. It's a toothless law, but it provides an opportunity for some progress on the question of media violence.

TVG. Yes, but Senator Simon made a speech on the Senate floor on June 30 lambasting the networks for not taking advantage of the Television Violence Act. He said he wasn't sure if they were "just making motions so it looks like they are doing something so we do not pay any attention in Congress to what is occurring." And he said that he continues to get statements from TV-industry people insisting that television violence doesn't do any harm.

WEINMAN. There are lots of food items that really are not good for children. Does that mean that parents should not be allowed, by law, to purchase those foods for their children; or that children should be forbidden by law to snack before dinnertime? It's a frightening prospect.

CHARREN. Sounds like a great idea.

GERBNER. We have that now. Children aren't supposed to be sold alcohol and tobacco.

LEONARD. I don't want to see a three-year exemption so that the networks can get together and decide how they're going to handle these problems. I don't want anything more that looks to me like censorship, no matter whether you call it business decisions or whether you call it taste. I speak as the kind of First-Amendment absolutist that I know Peggy Charren is, too. I think that violence and sex and political dissent are all in bed together, and if you start messing with one, you end up messing with the rest of them. We already have on television right now too many gentlemen's agreements that have, in effect, wiped out political dissent.

PROTHROW-STITH. Why is violence the only area where we're not doing that?

LEONARD. Well, we are. We're doing it all the way along the line in little things. But let me finish. This is what happens when people get together and decide what the country needs to be protected from. It is exactly the thing that I think is wrong with political correctness on too many college campuses. I think there should be offensive speech. I think there should be trouble. I think that obscenity should be allowed to us just as much as subversion should be allowed to us! And I don't think anybody should get together and say, here's how we can work it out!

WEINMAN. We do have to pose a question here, and I do it with all due respect to my academic colleagues. Who on this panel would like to tell me what specific, currently running programs you find too violent? I think some of the comments being made here about violence would have been valid in 1980, but we've learned a lot. You just don't see a television landscape across the networks with violent programming. You just don't. We don't have a proliferation of violence, we don't allow programs that glorify violence. If anything, we could probably be criticized for making it too sanitized. We don't show programs that are graphic and in which the heroes are the bad guys.

PROTHROW-STITH. There's MacGyver, there's In the Heat of the Night, there are detective shows over and over.

TVG. The National Coalition on Television Violence puts out a monitoring report occasionally, and the most recent one says that the most violent network shows—for the spring of 1991—in order, were: Young Riders, The Flash, In the Heat of the Night, Black Jack Savage, Top Cops, MacGyver, America's Most Wanted, American Detective, DEA, Hunter, and Unsolved Mysteries. All of those had 20 or more violent acts per hour, and Young Riders had 55.

GERBNER. Excuse me, let me say something here. It's ironic and very curious that Dr. Weinman, who is really the only censor we have . . .

CHARREN. What about [Senator] Jesse Helms?

GERBNER. Excuse me, Jesse Helms is not running a network. He's a legislator. Let's not mix up a lot of things that don't belong. But here we have NBC, a private corporation that has total control, total censorship—some of it highly desirable, some of it perhaps ineffective. But what is ironic is that it's John Leonard who says that's OK, let's not mess with it. And some people applaud.

LEONARD. I did not say that!

GERBNER. In effect, you said, let's not get into the act. Let's not mess with it. And First Amendment absolutists applaud that as an extension of the First Amendment. I think that's defeat of the First Amendment! It's using the First Amendment as a shield for censorship!

LEONARD. I don't know what on earth you're talking about. I don't like Dr. Weinman's censorship! I don't like any censorship! That's exactly what I said and I tried to say it as clearly as possible.

GERBNER. Well, OK, if I made a mistake, correct me.

LEONARD. I have corrected you!

GERBNER. You said, let us not get into the act, in respect to something that is a public trust. Keep the public out of the public trust. That's the position you've taken. I think that's a wrong position!

TVG. All right, let's get right down to it. Should anything be done to lessen gratuitous brutality, murder, and mayhem on television, from whatever source: networks, cable, home video? Do the broadcasters' rights of free speech on the public-owned airwaves supersede the public's right—and desire—for some modicum of protection from gratuitous violence coming into the home?

PROTHROW-STITH. Well, censorship is not the only possible solution.

TVG. Some very simple things that parents can do are suggested by the American Psychological Association. First, watch at least one episode of the programs the child watches to know how violent they are. Also, when viewing TV together, discuss the violence with the child. Talk about why the violence happened and how painful it is. Ask the child how conflict can be solved without violence. And explain to the child how violence in entertainment is "faked."

CHARREN. There are a number of ways to educate. We can educate children, we can educate parents. We can have seminars like this. You can try to help parents understand something that this panel has tried to articulate: namely, that it's important for parents to pay attention to what their children watch on television.

I sometimes tell parents: suppose a complete stranger came into your home carrying two bags—one containing a lot of products for sale, and the other a lot of stories. And he said to you, "Look, you look tired. Why don't you just leave, and I'll talk to your kids here on the couch." How many of us would say "Go right ahead?"

You have to help parents understand that that box in the living room is not always a friend of the family. And there are a million ways we can do that, which we're not presently doing. And the media can help.

TVG. Is there any use that might be made of the Motion Picture Association of America ratings system, to call attention to movies with inordinate violence when they're shown on television?

CHARREN. Yes, they could use words instead of letters like PG–13 and R. Why don't they say, "some violence," "some sex," "some sex and violence"?

SLABY. As a matter of fact, TV Guide does that in its listings for the premium-cable channels like HBO and Showtime. It uses the simple term "violence," and that can help parents decide which movies to watch and which not.

GERBNER. That's good for highly educated, upper-middle-class parents who control the set. Most parents not only don't control the set, but depend on its as a baby sitter. Most children are left alone much of the time. It's their parents who set the style in the home, and most parents do not look at either ratings or advisories.

SLABY. It's only a start to have truth in labeling, but it is a start.

GERBNER. Yes.

SLABY. In fact, when I looked at the cable programs listed this last week in TV Guide, and did a quick count, I saw that among those that were rated, more than half of them had violent content. So we're talking about the really new look, the new face of media violence. We need to include cable and VCRs in this. We hear Dr. Weinman talking about what the networks have done, and they have done a great deal recently, but in addition, we need to bring in what cable can do and what filmmakers can do, and get them together so they're not just pointing their finger at everyone else and saying, "My house is in order, the next guy's isn't."

GERBNER. Yes, education is very important, but it's like saying there are problems in our environment, so let's teach children to wear gas masks, and maybe not to breathe too much. It's not enough.

CHARREN. The best place to handle how kids relate to that television screen is at the ballot box in November, by putting people in power who care about our kids.

LEONARD. Or you feed everybody; then they will actually be able to pay attention in school and they'll grow up to have a more interesting imagination.

PROTHROW-STITH. Stop, stop, stop! You're both right! It's not an either/or thing. You're

got to have policy that protects people, and you're got to have education to help people deal with the situation. Once again, it's helpful for me to take a public-health look at this problem and ask, what changed our attitude about smoking? How did we do that? It was education in the classroom. It was working with the media. We banned the advertising of cigarettes on television.

PROTHROW-STITH. We have to use health education, relating to violence, in the classroom—the same way we did with smoking. We have to use the media to deglamorize violence, to show the reality of it, and to show that nonviolence can be productive.

Another strategy is liability, and I know that's opening up a can of worms. In the case of smoking, no suit has yet been brought successfully against that industry.

GVG. How would liability work with regard to television violence? You mean that if a specific crime were proven to be inspired by a specific television program, the network and the producer could be taken to court and have to pay damages?

GERBNER. It's a very tricky question.

WEINMAN. It is tricky.

PROTHROW-STITH. It's the notion of copycat—if a causal relationship can be established in a particular case.

TVG. That was attempted in 1974, after three teenage girls attacked a 9-year-old and raped her with a bottle. They'd seen something similar on an NBC drama called "Born Innocent." The mother of the victim brought an $11 million suite against NBC, but the U.S. Supreme Court dismissed it, saying that networks can't be held responsible for TV-inspired violence unless they incited it deliberately.

There was some data published in the New England Journal of Medicine that seemed to prove that depictions of suicide on television are often followed by a significant rise in teenage suicides. And there was the situation where 35 males, between ages 8 and 31, killed themselves playing Russian roulette—imitating a scene in "The Deer Hunter," which they'd seen on television.

PROTHROW-STITH. I think that the media can expect that the public may come around to demanding the same regulations for television as are in place for other professions. Most professions have a self-policing mechanism. In medicine we have peer review, and there is also a government component. You wouldn't want doctors and hospitals to be unlicensed and unregulated. And I think that people are going to want the same controls for the TV industry.

CHARREN. But the potential for closing down free speech in this country from ideas like this—liability for speech—is so horrendous that I'd rather put up with the violence on television.

PROTHROW-STITH. Well, there is a middle ground, and if we reach it without censorship, we'll be in a lot better shape. And I would love the initiative to come from the media.

WOLF. But you know, what's amazing is that we're sitting here and we're giving the viewing public absolutely no credit at all. None. And you know, what I've found over the years is that the audience is the best measure of a successful or an unsuccessful idea. And the notion that there ought to be a group of people who would get together and lay down guidelines, or groups that would regulate in some amorphous way. . . . You're just opening the door. I agree with John Leonard one thousand percent. There is no partial censorship.

GERBNER. But there is such a group of people. The only difference is that they're anonymous, unselected.

WOLF. Who are these people? Who do you think they are? Do you think there is a cabal out there deciding what we're going to watch?

GERBNER. No, not a cabal. They are called network vice-presidents, and they meet all the time.

WOLF. Who meets? Excuse me, sir, who meets? Do you think that the heads of the networks get together and decide what shows they're going to put on?

GERBNER. Not necessarily with each other. They know what they're doing.

WOLF. What are you talking about? Oh, that's ridiculous! If you wrote a book that said that, sir, you were completely misinformed!

GERBNER. Anybody who thinks that large, national corporations work with no direction is even more naive than I think.

WOLF. As a working member of this industry, I can tell you that's patently ludicrous! It is the most competitive business environment in the world. They will kill for a ratings point. And if people were dissatisfied, they wouldn't watch.

GERBNER. Wrong. People in every country watch whether they're dissatisfied or not.

CHARREN. There's almost no information-based programming for kids on commercial television in this country, and it's the biggest blot on the landscape of American broadcasting that ever was.

TVG. What does that have to do with the problem of violence on television?

CHARREN. It relates because we could use that kind of program to help kids understand what televised violence really is—and about the place of media in the world and in their lives. The kinds of things you expect a communications system to do in a democratic society, and which it does for adults but does not do for its children. And that is outrageous and disturbing and very sad.

TVG. The aforementioned APA passed a resolution that says, "Whereas, the great majority of research studies have found a relationship between televised violence and behaving aggressively . . . be it resolved that the American Psychological Association: one, encourages parents to monitor and to control television viewing by children; two, requests industry representatives to take a responsible attitude in reducing direct, imitatable violence in 'real-life' fictional children's programming or violent incidents on cartoons and in providing more programming for children designed to mitigate possible effects of television violence, consistent with the guarantees of the First Amendment; and, three, urges industry, governmental, and private foundations to support relevant research activities aimed at the amelioration of the effects of high levels of televised violence on children's attitudes and behavior."

SLABY. I think that public education is the missing ingredient. All of us at this table could agree that major things about media violence could be done on television in all of its forms regarding public education about violence prevention—informational programming, educational programming that is entertaining and teaches critical viewing skills, programming that is consistent with the mandates of the Children's Television Act. There's a great deal that's known about media violence. And there are very good suggestions about what might be done to teach the public about guns, alcohol, drugs, and their relation to violence. And the media can play a major role in that area, consistent with what we've already found in other public-health areas. Public-health campaigns are very successful when television is used as a springboard.

LEONARD. I need to say something here, as somebody who actually watches a lot of television. And that is that prime-time commercial television has been more responsible than any other part of this culture on precisely these matters. It's been the miniseries and the TV-movies about date rape, about child abuse, about alcoholism and drunk driving, AIDS, marital rape, abortion. It's been television, not the movies, not the newspapers, not the magazines, not the schools, and not the parent-teacher associations. It has been television—perhaps out of some vestigial liberal conscience—that has devoted two, sometimes three, sometimes four television movies, week after week, to just these issues. And it is amazing

CHARREN. There's one little, tiny thing that television can do that won't hurt anybody's income and will make a lot of parents much happier. And that is to stop putting on the air as promotional announcements the most violent 30 seconds of upcoming movies and miniseries. And running those promos adjacent to children's shows. It's an industry problem.

TVG: It appears that you're perfectly right about that. In our content analysis of a day-in-the-life of television, we found that commercials for theatrical films and upcoming TV-movies and miniseries were second only to cartoons in the amount of violence they purvey.

PROTHROW-STITH. NBC was going to show a movie called "Street War" a week after the Los Angeles riots. They pulled that, and instead put on "Kindergarten Cop." Now, I'm assuming they pulled it because the newspapers said it would be insensitive to show kids burning things in the streets right after the L.A. event. But "Kindergarten Cop" is no mild movie. I mean, the hero solves a problem violently. And there are many, many times in that script where they could have solved that problem differently.

GERBNER. You asked about practical and logical things that can be done. I'd like to add two or three more. First, we should urge parents not to use television as a form of punishment or reward, because that teaches indiscriminate viewing. I think we should urge parents to participate in children's viewing, so that they know something about the programs they criticize, so that they can tell children: that's not the only way to look at life. I think that teaching critical viewing and analytical viewing should be a central task in our schools. It's fresh approach to the liberal arts. Working on these fronts can make a significant contribution to a more reasoned and broader perspective from which to assess not just television violence, but the particular role it plays in industry policy.

TVG. As part of those viewing skills, shouldn't it be taught that violence can really hurt, that there's no such thing as violence without consequences? In your book, Dr. Prothrow-Stith, you accuse the mass media of lying about the physical and emotional realities of violence. In "real life," you write, "the impact of a moment of violence reverberates through time. Years later, parents are still mourning the lose of a child. . . . On film or videotape, violence begins and ends in a moment. 'Bang, bang, you're dead.' Then the death is over." Then you question whether the 12-and 14-year-olds "who are shooting each other to death in Los Angeles, Chicago, and Washington, D.C., really understand that death is permanent unalterable, final, tragic?" And you conclude, "Television certainly is not telling them so."

PROTHROW-STITH. We had a young man in the emergency room at Boston City Hospital who was surprised that his gunshot wound hurt. And I thought, boy, he's really stupid, anybody knows that if you get shot, it's going to hurt. But it dawned on me that what he sees on television is what when the superhero gets shot in the arm, he uses that arm to hold onto a truck going 85 miles an hour around a corner. He overcomes the driver and shoots a couple of hundred people while he's at it.

It's important, I think, to differentiate the kind of violence you see in a movies like "Boyz N the Hood," "Glory," or "The Killing Fields," where you are saddened by it, and where the pain is obvious, where there are consequences to the violence. In "Lethal Weapon 3," on the other hand, you are excited and happy and applauding as the mayhem goes on.

SLABY. Exactly.

WOLF. I agree with you. I'd go further. Dr. Weinman and I occasionally have arguments because when I depict violence on a show, my desire is always to show it much worse than the network or the advertiser have any desire to see it. If somebody gets shot—and I've seen people who were shot—they should be writhing on the ground screaming in pain, with gallons of blood running out of them. We're not allowed to show that. I agree that if you show violence, show it the way it is, do not glamorize it.

TVG. Another miscarriage seems to be that women are too often the victims in TV scenes of violence—so much so that many youths think that sexual violence is permissible, since they see so much of it on television. That's the conclusions of Dr. Edward Donnerstein of the University of California at Santa Barbara. Violent TV and film material, he points out, is written almost exclusively by white males. And it's men—not women—who want violent entertainment. And it's men who commit most crime.

GERBNER. I ask my students to watch three hours of prime-time programming and to write down who it is who commits violence—how many men, how many women, who is the victim. You discover that you are entering a world in which there is an unwritten policy that is very consistent, that is unfair, that is unjust, that is highly prejudiced, that encourages violence and encourages victimization on a very unequal scale, showing certain people, mostly women and minorities, that they are more vulnerable.

WEINMAN. I don't want to get too nitpicky, but I would question your particular three hours.

GERBNER. Any three hours.

WOLF. I find that hard to believe. I've never seen statistics like that.

GERBNER. But that's what the public sees.

WOLF. You're cooking the books! You're throwing out statistics that are meaningless!

GERBNER. Not to the American people. They are meaningless to those who are paid by the industry!

WEINMAN. Excuse me, I had the floor! We cannot expect any cultural appendage, including television, to look different from the rest of society. It is a reflection. It is a mirror image. Hopefully, there are times when we actually put programs on that enlighten and do more than entertain, for example, "The Burning Bed." By and large, what you see on television and in the movies is basically what people are interested in watching, and these are cultural reflections. So, for example, the fact that women are victimized more on television than men unfortunately is a truth in the world we live in.

Is television perfect? Absolutely not. It is more of a reflection of the entire culture in which we live. Still, we have responsibilities, which is why we have guidelines, a standards and practices department; which is why we work closely with the producers to monitor what goes on the air.

I can tell you that most producers who have successful programs on television come to it with a giant amount of intelligence and, in most cases, integrity. And when you point out to them that perhaps they are trying to put on something that may be too violent or too sexual, they are reasonable, sensible people who have their own children and are not interested in living in a world where violence is a daily occurrence.

PROTHROW-STITH. But we treat violence and sex very differently. We have no evidence that watching sex does any damage to children, and yet we go on and on about the sexual content of television and movies, and about regulations relating to sex. And I would just appreciate it if we treated violence the same way we treat sex.

GERBNER. Styles change, but I must tell you that when you talk about the main elements of television storytelling, including violence, it's been extremely consistent. In this last season that we have studied, the 1991-92 season, prime-time violence on the three major networks appears to have declined slightly for the first time in 25 years. Children's weekend programming, however, has become more saturated with violence.

This is not a temporary aberration. This is a question of policy, and the policy has to be addressed ultimately. Sooner or later, as with other environmental policies, we have to realize for the first time that we are in a new age. It's no longer a selective medium. Children are born into it. We have a responsibility for enriching that climate in which they live, learn, and grow.

PROTHROW-STITH. We protect our children from a variety of things via regulatory mechanisms, and I think we need to do some protection in the area of violence—particularly of those children whose parents aren't able to, or don't, do it. And I think that if the industry, particularly the networks, continues to be as sensitive as they have been to this problem, and if that spills over into the movie industry, we'll be successful. When it's unpopular, it won't make money. And when it won't make money, we won't have this panel.

GERBNER. Many years of study have led me to the conclusion that broadcasting policy is held very tightly by a handful of men imposing rather strict controls. If there is only one thing I would say to do, it is—hire more women, both on-screen and off. And the minute you do that, the world will begin to change and be more fair, more just and less violent.

LEONARD. Theodore Sturgeon was once told that 90 percent of science fiction was crap. He said, yes, 90 percent of everything was crap. Ninety percent of television is crap. And we have more crap coming. We have lots more channels, but it sometimes seems it's just like a credit card that allows you to multiply your opportunities for disappointment.

I think that the proliferation of cable channels has been, on the whole, more nonviolent than violent, except for the premium-cable channels and, of course, the VCR stuff that you bring into your home. For the 10 percent of television that isn't crap, I would like to see it more brilliantly educational. But the best kind of education on television isn't going to do any good if it's going into a broken home in a bombed-out neighborhood where there aren't any schools and there aren't any parents and there isn't any food and there isn't any expectation of a decent future. Whom are these images out there in the ether to help? We begin, as always, with providing bread and jobs, and then a culture begins to create grander cultures in its imaginary forms. That's where I would begin.

SLABY. I was going to say that one thing that resonates with me is the rather sad commentary that Dick Wolf says his children aren't allowed to watch any of the programs he has made, or even any of the Saturday morning programs. I think television could be on the side of solving the violence problem, and doing it in a variety of ways—not only programming like "The Burning Bed," which sensationalizes at the same time that it teaches, but informational and educational programming as well.

I think that we American citizens would like to be proud of our programs, and would like to see the industry pull together with researchers, and all of us get together and solve this problem once and for all. Certainly, Congress is calling for the industry to solve it. And I think the American people are calling for us to solve it as well. And the crime, if there is a crime, is that television has such potential that it's not using to try to solve this problem of violence. And I would like to see that happen in the next decade.●

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[From TV Guide, Aug. 22-28, 1992]

A MESSAGE FROM SENATOR PAUL SIMON, CHIEF SPONSOR, TELEVISION VIOLENCE ACT

I checked into a motel room late one night a few years ago after a long day of appointments in Illinois. I flipped on the room's TV set, hoping to catch the late news. Instead, I saw an actor being sawed in half with a chain saw, in vivid color.

The scene unsettled me that night. I wondered what it would do to a 10-year-old or to a 14-year-old. When I returned to Washington, I asked my staff to gather studies on television violence. They discovered nearly 3000 scholarly articles and studies on the harmful effects of television violence on children and adults.

On the other side, many in the television industry argue that TV violence does no harm. They are essentially claiming that exposure to violence in a 25-minute program has no impact, while exposure to a 30-second commercial has great impact. The obvious answer is that TV is a powerful sales medium, whether the product is soap or violence.

As I dug deeper, I found, first, a remarkable consensus in several research fields about the harm excessive TV violence does to children and adults; second, confirmation that our television is more violent than ever before and may be the most violent of any industrialized society; and third, that self-regulation not long ago was an accepted practice in the American television industry, but it was made illegal through new interpretations of the antitrust laws.

As the problem became clearer, the question then became: in a free society like ours—one that shuns government censorship and has a commercial television industry—are we powerless to protect ourselves and our children from the harm caused by excessive TV violence? I believe the answer was partially found in the Television Violence Act, a bill I introduced that cleared Congress and was signed into law by the President at the end of 1990.

The Television Violence Act provides a limited three-year antitrust exemption so that members of the industry (covering all aspects of TV—broadcast and cable—from the creative side to programming decisions) can discuss and develop voluntary, industry-wide guidelines to reduce the amount of violence on TV.

Use of this legal leeway is voluntary, not mandatory, so it will need people in the industry to spark this process to life. To date, while we've seen some action quite frankly, there hasn't been as much as I'd hoped for. Industry members have been able to come up with creative reasons to explain why they aren't using this law. Let's be honest; if television executives wanted to make it work, they could. The cable industry may turn out to be a surprising exception. The National Cable Television Association has commissioned an extensive study of TV violence in cable programming, due later this year. But the rest of the industry seems to be in a test pattern, hoping the law will lapse before the public notices.

We're midway through the three-year exemption period; the clock runs out on the new law next year. Public discussions like this one; sponsored by TV Guide, are exactly what's needed now to give this issue the attention it deserves, while there's still time for the industry to act.

Television can appeal to the best in us or to our worst instincts. This law makes it easier for television to appeal to the best in us.

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[From TV Guide, Aug. 22-28, 1992]

SUMMING UP: WHAT WE CAN DO

The American Psychological Association suggests four steps parents can take:

(1) Watch at least one episode of programs the child watches to know how violent they are.

(2) When viewing together, discuss the violence with the child: why the violence happened and how painful it is. Ask the child how the conflict could have been solved without violence.

(3) Explain to the child how violence in entertainment is "faked" and not real.

(4) Encourage children to watch programs with characters that cooperate, help, and care for each other. These programs have been shown to influence children in a positive way.

OTHER POSSIBLE STEPS

Urge the broadcast, cable, and home-video industries to adopt a unified ratings system of advisories to parents, labeling programs and movies as to their violence content.

Urge TV and cable-industry executives to take full advantage of the Television Violence Act, permitting them to work collectively toward reducing media violence.

Make TV violence part of the public-health agenda (as with smoking and drunk driving), publicizing—through a vigorous public information campaign in all informational media—its perils and effects.

Establish courses in "critical viewing skills" as a regular aspect of school curricula, to help young people become more discriminating viewers.

Inquire of elected officials their views and policies on televised violence; then vote accordingly in November.

Promote passage of a law requiring that, eventually, all new television sets be manufactured with built-in time-channel lock circuitry, allowing parents to "lock out" channels and programs containing levels of violence they consider objectionable.

Support the resolution of the American Psychological Association urging the broadcast and cable industries "to take a responsible attitude in reducing direct, imitatable violence" in live-action children's shows and "violent incidents on cartoons."•

## THE 65TH ANNIVERSARY OF THE JEWISH COMMUNITY CENTER OF ATLANTIC COUNTY

• Mr. LAUTENBERG. Mr. President, I rise today to honor the Jewish Community Center of Atlantic County which is celebrating its 65th anniversary this year.

In 1927, a group of dedicated individuals realized that there was a need for a recreational facility for the surrounding area and founded the JCC which was housed in Atlantic City until 1963. It was then moved to Margate to better serve its members in nearby communities.

The JCC serves all ages with various programs to help meet the need of families and individuals in the community. For example, working parents enroll their infants in the child care program. Children from ages 3 through 5 enjoy preschool in a caring environment. Senior citizens find comfort within its walls by meeting with friends for social outings and functions. Additionally, JCC has offered a latchkey program for 6 years which provides a place for children to go after school when their parents are not home.

Mr. President, in its 65 years, the Jewish Community Center of Atlantic County has played an important role helping people with everyday pressure and problems and in strengthening and bringing families closer. I commend the JCC and all its staff and volunteers for their efforts to meet the changing needs of community residents. I congratulate the JCC as it celebrates this significant milestone. May it continue to serve the citizens of Atlantic County for years to come.•

## CONTEMPT FOR THE CONSTITUTION

• Mr. SIMON. Mr. President, for too short a period, the Chairman of the National Endowment for the Arts was John Frohnmayer, an appointee of a Republican administration, who handled a very difficult job with a sensitivity and a delicacy that I appreciate.

But he was unwilling to compromise on the basic issues of free speech. And that cost him his position.

Recently, I read in the Los Angeles Times his comments about the Republican platform and its relevance to the Constitution.

There will be those who say "sour grapes."

My own feeling is that it takes an appreciable amount of courage for someone in John Frohnmayer's position to stand up and write what he has written.

I urge my colleagues in the Senate and House to read his comments, not simply for whatever political response they may cause in this election, but to cause all of us to be more sensitive to basic constitutional principles in the future.

I ask to insert his article in the CONGRESSIONAL RECORD at this point.

The article follows:

[From the Los Angeles Times, Sept. 16, 1992]

PERSPECTIVE ON POLITICS: CONTEMPT FOR THE CONSTITUTION

(By John E. Frohnmayer)

The Republican platform is now available in print for public scrutiny, which it richly deserves, for it is a document worthy of the convention that spawned it—a dismal and bloodless exercise in name-calling and blame-shifting. But most dismaying to those of us who would like to feel a part of the Republican Party, it juxtaposes patriotic rhetoric with utter contempt for our Constitution. Consider just seven examples:

The First Amendment says, "Congress shall make no law respecting an establishment of religion . . . ." The Republican platform says, "We believe our laws should reflect what makes our nation prosperous and wholesome: faith in God . . . ." How could the First Amendment be more directly contradicted and rejected? Martin Mayer, president of the Christian Action Network, said, "If I didn't know any better, I would assume the platform was written by the religious right." The Rev. Pat Robertson's group bragged that it controlled 28 of the 100-plus delegates to the platform committee. It shows.

The platform calls for control of blasphemy, in particular through the projects funded by the National Endowment for the Arts. Leave aside that the art the platform's authors consider blasphemous might be interpreted differently by others of equal faith. Both the free-exercise clause and the establishment clause of the First Amendment prohibit such laws. To punish a blasphemer, one must first define the religious dogma that the law would protect. Obviously, that cannot be done in fealty to the Constitution.

The religious infiltration of the Republican platform, and thus Republican politics, is hardly isolated. The President excoriated the Democratic Party for not including God in its platform. Prayer in schools and aid to parochial schools (promoted as school choice) restate the theme in the platform. Aside from the constitutional invasion (a significant aside, indeed) this surrender of politics to religion is deeply troubling. If you think that unifying religion and politics is a good idea, just look at countries like Iran where thousands of citizens were killed in the process of government doing just this.

On to the fourth example of the platform's excesses: The Constitution, and particularly the Bill of Rights, protects the dissenter, the unpopular idea. The platform, a cleansed and starched ideal of monolithic family values, is as American as the Playboy centerfold—airbrushed, stapled and sexless. Appreciation of individual freedom is a major theme, but the platform disclaims, in the same breath, divergent lifestyles (read: homosexuality), abortion and those "waging guerrilla war against American values." As Justice Robert H. Jackson said in 1945: "Freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the

existing order." When Republicans so surely "know" what is right and wrong (and that phrase appears repeatedly), the rest of us, including those Republicans who are so thoroughly disenfranchised by this platform, deserve to be uncomfortable.

The Republicans' attempt to prohibit abortion constitutes such an absolute in their hierarchy of values that they don't even want it mentioned in schools. What ever happened to free speech? Rust vs. Sullivan, the abortion counseling case, was used by a high-ranking member of the Administration's Justice Department to justify government license to determine which books could be shelved in a federally supported library.

Further: The line-item veto sought by President Bush and supported in the platform is a direct attack on the doctrine of separation of powers. A line-item veto cedes legislative power to the executive, diminishing the checks and balances so carefully preserved by the Constitution.

Example No. 7: The platform cries that the legacy of liberalism has elevated criminal rights above victim rights. "Criminal rights"—the right to confront one's accuser, to have a jury of one's peers, the right to legal counsel, the protection against self-incrimination—are not "criminal rights" at all, but rights of all citizens. Nobody is for criminals; but intelligent people certainly are for the Constitution and its guarantees against abuses by the government.

I just can't resist two more howlers. Protection of private property rights is a hot topic that appears at least four times in the platform. "Every rule that reduces the value of private property is what our Constitution calls a "taking,' " it proclaims. Who says? What about zoning and comprehensive land-use planning? Those are just a couple of instances in which reduction of value—or an owner's expectation of value—are not "takings" at all. And the second howler: "Protection of environmentally sensitive wetlands must not come at the price of disparaging landowners' property rights." In other words, the government shouldn't be able to preserve the environment (for all of us) if a landowner objects. The Fifth Amendment doesn't say that the government can't pursue the greater good. It only requires due process and payment if property is taken.

Religious zealots did write this platform—zealots who have forgotten that the Kingdom of God on Earth is spiritual, not political. Religion is allegiance to the unenforceable, a moral code that results from faith, not a morality that is crammed down our throats by the muscle of the government. The framers of our Constitution understood this distinction. The Republican Party has lost it entirely.

The Republican platform is a grim reminder of this Administration's willingness to accommodate, indeed to embrace, the hard right. George Bush has bought this line completely, and if he wins, it will be his mandate.

This platform sets out a choice for those of us who are moderate Republicans: Support the party or support the Constitution. It's not a hard choice. I will vote for Bill Clinton.●

## UNION TOWNSHIP COMMUNITY ACTION ORGANIZATION'S 25TH ANNIVERSARY

● Mr. LAUTENBERG. Mr. President, I rise today to recognize the Union Township Community Action Organization [UTCAO] which will be celebrating its 25th anniversary with a banquet on October 23, 1992. UTCAO has grown from a small service agency to a successful, multiservice private nonprofit community action organization. Serving the Vauxhall and Union Township community, the services it provides makes a difference in the live's of our inner city residents every day.

UTCAO was founded in October 1967 by a group of concerned citizens in order to resolve many of the social problems experienced by community residents. Today, UTCAO provides various important services including Head Start, infant/toddler, and day care programs, senior citizen programs, and summer youth employment.

Mr. President, at the banquet, the UTCAO will be recognizing some of the caring individuals who serve as role models for all. I also congratulate these outstanding, dedicated individuals who have donated much time and effort to help people. They are an inspiration to many.

I commend these recipients as well as the entire staff at UTCAO for their commitment and continuing effort to the Vauxhall/Union Township community. Without their help and the ongoing support and contributions made to UTCAO by business, industry, and the community at large, many individuals and families would be at a great loss.

Congratulations to Union Township Community Action Organization, Inc., as it celebrates this significant milestone.●

## WAR'S TOLL DOESN'T END WITH LAST BOMB

● Mr. SIMON. Mr. President, one of the most effective writers in America today is Chicago Tribune columnist, Mike Royko.

How he comes up with consistently good columns day after day after day, I do not know, and I say that as one who has done a fair amount of writing in my lifetime.

Frequently, he is simply entertaining, but more frequently, he is both entertaining and insightful, prodding our conscience in the process. Then, occasionally, what he has to say is simply sobering.

Recently, he had a column about the children of Iraq. One of the things that disturbed me throughout Desert Storm was our insensitivity to casualties on the other side.

Compare the speech that George Bush gave to the Nation—when he launched the attack on Iraq's forces after their indefensible invasion if Kuwait—with its total lack of concern for the other side, with Abraham Lincoln's second inaugural address, with its great sensitivity for the casualties and the suffering on the other side.

I urge my colleagues to read the Mike Royko column, and I ask to insert it into the RECORD at this point.

The column follows:

[From Chicago Tribune, Sept. 25, 1992]

WAR'S TOLL DOESN'T END WITH LAST BOMB

(By Mike Royko)

There was this squib of a news story that came over the wires the other day. It wasn't much longer than a baseball box score or an interview with a rock star about his next tour. It said:

"Boston (AP)—The death rate among Iraqi children rose dramatically in the months after the gulf war, largely because of an outbreak of diarrhea caused by disabled water and sewage systems, researchers reported today.

"In the first seven months of 1991, about 46,900 more children died than would have been expected, according to a study in the New England Journal of Medicine.

"It said the death rate for children under 5 was triple that before the war.

"The study was conducted by Dr. Alberto Ascherio of the Harvard School of Public Health and other researchers from the United States, England, New Guinea and Jordan. It was paid for by the United Nations Children's Fund.

"The researchers said they worked independently of the Iraqi government."

That's it. About 15 lines of type.

But then, it's old news. The war has been over for a year and a half. The parades have ended, the yellow ribbons have been taken down, and the last proud, chest-thumping speech has been made.

Still, if you like numbers, 46,900 is an interesting figure. And you can play with it in different ways.

For example, there are baseball and football stadiums that have a seating capacity of about 46,900.

So we might try picturing one of these stadiums with every seat occupied by a child 5 years or younger.

Try it. Close your eyes and imagine Comiskey Park in Chicago or Shea Stadium in New York with a little kid in every seat.

That's a lot of noisy kids.

Now, imagine that somebody pulls a switch and sends a jolt of electricity into the seats and every one of those 46,900 noisy kids dies.

That would be a lot of dead kids. So you'd better open your eyes, since it isn't a pleasant thing to imagine.

Or we can look at it another way. The biggest hotel in the world is in Las Vegas. It has 4,000 rooms.

So if you put 11 kids in each room, you'd have stuffed the place with 44,000 kids. Put the extra 2,900 in the grand ballroom.

Let's imagine that someone pushes down on a plunger, setting off a huge explosion that blows the hotel away, really flattens it.

Now that would rate more than a squib of a story. It would be front-page headlines all over the world: "Hotel explodes killing 46,900 children."

Which just shows that bad water leading to diarrhea and other intestinal disorders, doesn't have the same dramatic impact of an explosion, although the results are the same.

Or we can play with the number another way.

The average daily attendance at Disney World is 72,233.

Of course, all 72,233 people aren't there at the same time. Some come in the morning and are gone by mid-afternoon. Some come in the afternoon and leave when the big parade is over.

So let's take a guess and say that at about 2 o'clock on an average afternoon, there are about 46,900 people there, many of them children.

And a terrible thing happens. A giant meteor comes roaring out of space and lands smack dab on Disney World, leaving nothing but a giant crater. (Scientists say something like that could happen, but it's a zillion-to-1 shot, so don't change your vacation plans.)

Now that would be a super-big story. It would stun the world and would go down in history as one of the greatest disasters.

Which shows that if you want to make history, get hit by a meteor instead of stomach cramps.

Which also shows that there is more to modern wars than that which the Pentagon allows us to see on CNN.

What we see on TV is kind of fun, all those videos from high above of targets far below suddenly blossoming like tiny flowers when a bomb lands. The graphics are not yet as good as Super Mario 4, but maybe by the next war, they'll catch up.

And we see the parades, the strutting politicians, and the cheering sports bars that have become cheering war bars.

But what we don't see is described in the full report by the doctors who made this study:

"The destruction of the supply of electric power at the beginning of the war, with the subsequent disruption of the electricity-dependent water and sewage systems, was probably responsible for the reported epidemics of gastrointestinal and other infections.

"These epidemics were worsened by the reduced accessibility of health services and decreased ability to treat severely ill children."

In other words, we don't see those invisible but deadly killers in the water or the children screaming because their stomaches hurt and their fevers are raging. And we don't see them weaken, fade, then die.

But who would want to see a doctor like that, anyway?

In a classic understatement, the doctors concluded: "War is never good for health. But the full effect of war and economic sanctions on morbidity and mortality is difficult to assess, and the number of civilian casualties caused indirectly is likely to be underestimated.

"* * * During the gulf war, it was suggested that by using high-precision weapons with strategic targets, the Allied forces were producing only limited damage to the civilian population.

"The results of our study contradict this claim and confirm that the casualties of war extend far beyond those caused directly by warfare."

Forty-six thousand nine hundred kids. Give or take a few tots.

So what color ribbon do we wear for that triumph?●

## JOSEPH D. KIMBREW, AN OUTSTANDING HOOSIER

● Mr. LUGAR. Mr. President, it is with great pride that I salute Joseph D. Kimbrew, an outstanding Hoosier who, for the past 36 years, has served with distinction the city of Indianapolis as a firefighter. In 1987, he became the first African-American fire chief for Indianapolis.

Born in Indianapolis, Chief Kimbrew attended IPS 42 and graduated from Crispus Attucks High School. Prior to his firefighting career, Joe served in the Army and later worked at Fort Benjamin Harrison Finance Center in accounting. He credits his father with instilling in him the qualities that led to his success. Joe Kimbrew rose through the ranks of chauffeur, lieutenant, captain, district chief, and deputy chief of service, and administration.

Chief Kimbrew has served on the board of directors of the Greater Indianapolis Firefighters Federal Credit Union for the past 10 years. He holds a lifetime membership in the NAACP.

In 1968, Joe Kimbrew became the first firefighter to receive the Firefighter of the Year Award, which was presented by the business community. He is a member of the Red Cross Hall of Fame for heroism and was just recently designated a "Distinguished Hoosier" by the Governor of Indiana.

On February 1, 1992, a tribute was paid to honor this great Hoosier, who in his 36 years of service never had an absence due to illness, for his contributions to expanding emergency medical services and providing leadership to firefighters of Indianapolis. His loyal wife, Carolyn; son, Joseph, Jr.; and daughter, Tracey, were present to offer their accolades to the career of this fine man. I ask my colleagues to join me in saluting this great Hoosier.●

## COLUMBUS DAY CELEBRATION

● Mr. D'AMATO. Mr. President, I rise today to honor the great explorer Christopher Columbus on the occasion of the quincentenary of his first voyage to the New World from Palos, Spain. To many of us, this seminal voyage is the most important event in recorded history. In honor of this pivotal event, Columbus Day is widely celebrated in cities and towns throughout the country with church ceremonies, festive parades, fireworks, and other educational and cultural events. Mr. President I wish to add my jubilant voice in celebration of this great day for all Americans.

In his age, Columbus stood as a pioneer of progress and achievement. He battled great odds with remarkable determination in order to reach the New World. Wave after wave of immigrants from many nations have displayed similar courage and determination in finding freedom and opportunity in America.

Each year people all over America reaffirm their faith in the future and declare their willingness to face unknown tomorrows with confidence and determination on Columbus Day. On that day people take a break from work and celebrate five completed centuries of American life.

The numerous observances of Columbus Day are only part of the tribute our Nation pays to this great explorer. Statues honoring Christopher Columbus adorn many localities, and many cities and towns are named in his honor. Many other memorials exist throughout our country and the world honoring Christopher Columbus, including commemorative stamps and coins. He is also the hero of numerous plays, operas, novels, and poems.

The celebrations for the quin- centenary thus far have been rather elaborate and include the Columbian World's Fair in Seville, the International Specialized Exhibition in Genoa, and the summer Olympic games in Barcelona. Columbus, OH, hosts the centerpiece of U.S. celebrations, AmeriFlora '92. The month of July found the greatest assemblage of tall ships in both the New York and Boston harbors in honor of Columbus' quincentenary. Each year the Knights of Columbus sponsors a wreath-laying ceremony at the Columbus Fountain at Union Station in Washington, DC.

Every city in the Nation will pay tribute to Christopher Columbus and the quincentenary of his discovery of America and remember the part of our heritage that includes the great Age of Discovery. It is my hope that October 12, Columbus Day, will be properly celebrated all over my great State of New York, the entire country, and the whole world.●

## 10TH ANNIVERSARY OF NEWTON'S APPLE

● Mr. WELLSTONE. Mr. President, I rise today to speak on behalf of the public broadcasting television program "Newton's Apple." This season marks the 10th anniversary of this award-winning science program.

In October 1983, "Newton's Apple" began it's first season of introducing children and their parents to the varied disciplines of science. Through the past 10 years this educational-science show has successfully interested both kids and adults in all types of science—household science, backyard science, and laboratory science.

On "Newton's Apple" science is more than a topic from a textbook—it is a fun activity. Working scientists and respected professors chat with host David Heil, and naturalist, Nancy Gibson. Topics covered in the past have included a segment which asked "What does it feel like to step in quicksand?", and last year field reporter Peggy Knapp took a tour of a domed stadium to learn just how it is kept domed.

The program has been recognized on numerous occasions for its presentation of both complex and simple scientific information in an interesting and understandable fashion. "Newton's Apple" has received awards from the American Association for the Advancement of Science, the National Society of Professional Engineers, Parent's Choice Awards, and the American Academy of Family Physicians Journalism Awards. In addition, "Newton's Apple" has been nominated twice for

an Emmy, receiving the award in the children's category in 1989.

I think "Newton's Apple" is a wonderful example of public television at it's best. Public television programming such as this provides important educational informational programming to adults and children in their homes.

All Minnesotans can take pride in the accomplishments of this program. "Newton's Apple" is produced by Twin Cities Public Television and KTCA-TV, in St. Paul-Minnesota, through a grant from the Minnesota-based 3M Corp.

On behalf of myself and all of my colleagues in the Senate, I commend those involved in "Newton's Apple," particularly host David Heil, who is also associate director of the Oregon Museum of Science and Industry, field reporter Peggy Knapp, naturalist Nancy Gibson, executive producer Richard Hudson, series producer Kathryn Scott, and vice president for national and cultural production Gerald Richman. I congratulate them all on this, the 10th anniversary of the show.•

## WOMEN IN THE SCIENCE AND ENGINEERING WORK FORCES

• Mr. SIMON. Mr. President, on September 29, the House passed H.R. 3476, the Advancement of Women in Science and Engineering Work Forces Act, by Congresswoman CONNIE MORELLA. I hope my colleagues will join me in supporting swift passage of this important measure in the Senate.

This bill would establish a commission, modeled on the Glass Ceiling Commission, to research and evaluate the recruitment, retention, and advancement of women in science and engineering professions. It would analyze the roadblocks that prevent women from advancing in these fields and disseminate its findings to educators and employers to use to recruit and retain women in these fields.

The data on women in science are alarming. Only 24 percent of scientists are women, and only 8 percent of engineers are women. There are only 4 tenured professors in the top 10 math departments. Only 6 percent of the scientists listed in "American Men and Women in Science" are women. We need to ensure that women have the opportunity to advance in these fields.

I am pleased that the cost of the bill will be nominal, with the primary cost being to disseminate the information.

I have been working with Congresswoman MORELLA's office and the congressional women's caucus in an effort to ensure that this important bill is passed before we adjourn. I am pleased that my colleague from Tennessee, Senator GORE, who has a strong interest and record on this issue and chairs the Commerce Subcommittee to which the bill was referred, has joined us in working for passage of this bill.

I hope our colleagues will join us in supporting this important legislation.•

## COMMENDING THE SAMUEL U. RODGERS COMMUNITY HEALTH CENTER

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a health care provider whose service is matched by few. I am speaking of the Samuel U. Rodgers Community Health Center and its fine staff.

Samuel U. Rodgers Community Health Center tirelessly provides the best health care possible to the less fortunate underserved segment of the Kansas City, MO, community. I have worked very closely with Dr. Rodgers and his impressive staff to expand Federal resources for the quality care they provide. The Rodgers Center is to be looked upon as a model for community health centers nationwide.

The care and concern that Samuel Rodgers pays to the children of Kansas City is especially commendable; it is vital to get children proper immunizations. The Rodgers staff provides nutritional programs, preventive care, early identification programs, adolescent pregnancy counseling, and programs to address child abuse and neglect and substance abuse. I am impressed with the broad range of services the Rodgers' staff has dedicated itself to providing in order for children to live healthy and productive lives.

The Rodgers Center has set October 5 aside to celebrate its first annual children's day in observance of the National Child Health Day. Samuel U. Rodgers Community Health Center symbolizes the importance of this day.

Mr. President, please join with me to honor the dedicated health care providers, support staff, and volunteers of the Rodgers Community Health Care Center. We salute those whose enthusiasm and deeds bring good to the community in ever-increasing measure. When we give of ourselves, we experience the renewing power of life.•

## TRUTH IN LABELING ON ESTONIA

• Mr. DECONCINI. Mr. President, all of us are aware of the tragedy of Bosnia-Hercegovina, and the policy of ethnic cleansing being undertaken by Serbian forces to drive non-Serbians out of Bosnia. The term ethnic cleansing has become synonymous in Bosnia with a gruesome campaign of slaughter and atrocities reminiscent of the horrors of World War II.

That is why I was extremely disturbed to note a recent report that a Russian Foreign Ministry press spokesman, Mr. Yastrzhembsky, had warned Estonia and Latvia against policies that could lead to "sliding down the slope to the practice of ethnic cleansing."

Mr. President, no doubt animosities exist on the part of some Estonians and Latvians toward their respective Russian communities.

But ethnic cleansing? Are we to believe that these two tiny nations with a long tradition of tolerance and peaceful relations between their ethnic minorities are about to embark on a policy of ethnic cleansing against their Russian minorities, with the huge Russian nation on their eastern borders?

How gullible does Mr. Yastrzhembsky believe world opinion is? Or is Mr. Yastrzhembsky simply trying to get the Russian peoples' minds off their own problems by trying to create an enemy next door?

Mr. President, a staff delegation of the Helsinki Commission, of which I serve as cochairman, recently visited several cities in Estonia's heavily Russian-populated northeast region to gauge the mood of the population, to discuss the issue of human rights with Russian-ethnic officials there, and to observe the September 20 elections. I would take this opportunity to say that the delegation was ably assisted by Ambassador Frasure and his staff at our Embassy in Tallinn.

In any event, I would like to quote from some of the findings of the staff delegation:

> Some Russians deeply resented being unable to vote, and Russians generally would have preferred to receive the option of automatic citizenship. At the same time, most Russians are clearly more focused on economic issues. They were more worried about possible unemployment and rising prices than voting in this election.

And further:

> Commission staff members were also struck by the widely held belief among Estonia's Russians—both ordinary people and the local political elite—that they and their concerns were being manipulated by politicians in the Russian capital.

I wish to emphasize that none of the Russians interviewed indicated that they feared physical violence at the hands of the Estonians. Nor did the delegation find any evidence that the Estonian Government was planning to forcibly deport Russians. Tallinn certainly has other ways to employ its limited resources.

Now I do not want to create the impression that voting rights are not important as a matter of principle, regardless of what other concerns may be on the minds of the citizenry. Arguments can be made that the Estonian Government should have approached the citizenship and voting issue differently. And certainly the Estonian Government will now, having freely elected a President and National Assembly, have to deal directly and forthrightly with all the issues, economic and political, that concern the Russian minority.

But to charge that Estonia, and its neighbor Latvia might slip down the slope to ethnic cleansing, is irrespon-

sible, and hardly conducive toward solving the genuine problems that both Balts and Russians face in their newly independent countries.●

## HOOSIERS HONORED BY LIVING LEGENDS IN BLACK

● Mr. LUGAR. Mr. President, I would like to take this opportunity to recognize 12 outstanding Hoosiers, recently honored by the Living Legends in Black, Inc., for their numerous contributions to the Indianapolis community. The following Hoosiers were acknowledged at the Living Legends in Black annual banquet:

Rev. Dr. T. Garrott Benjamin, Jr.: Reverend Benjamin is the senior pastor, of the Light of the World Christian Church, in Indianapolis, IN. He is also the founder and president of Heaven on Earth Ministries, Inc., which produces the "Benjamin" television broadcast aired on the national LeSea Network and the Armed Forces Network to provide ministry outreach via satellite to military bases and naval ships around the world.

Rev. Fr. Boniface Hardin, O.S.B.: Reverend Hardin is the founder and president of Martin University, in Indianapolis, IN, the first and only African-American university in the State of Indiana.

Sam H. Jones: As the president of the Indianapolis Urban League and a 34-year veteran of the Urban League movement, Mr. Jones is an active professional, social, civic, and education advocate within the Indianapolis community.

George H. Rawls, M.D.: A highly respected clinical surgeon, Mr. Rawls is an active volunteer in numerous social and community affairs and an authority in the field of clinical surgery and medical treatment.

Lehman D. Adams, D.D.S., F.A.G.D.: As a recognized leader in the field of oral surgery, Adams is an active participant in various community and social causes for the continued empowerment within the African-American community.

Willard B. Ransom: A highly respected Indianapolis attorney, Mr. Ransom is a long-term participant in the civil rights and African-American economic development movements with extensive experience in drafting and lobbying for civil rights and other legislation in the Indiana General Assembly since 1946. He has played a major role in the passage of all significant civil rights legislation in Indiana.

Landon Montel Turner: Former Indiana University basketball star, Mr. Turner demonstrated inner strength and courage following a paralyzing car accident. The Indianapolis native is currently a motivational speaker uplifting audiences across the country with his message of overcoming life obstacles.

Rev. Dr. Andrew J. Brown: Known as the father of the Indiana civil rights movement, Mr. Brown initiated and orchestrated many social and racial awareness campaigns. Mr. Brown is the founder of the Indiana Black Expo, currently recognized as the largest African-American cultural event in the country.

William "Bill" A. Crawford: A member of the Indiana General Assembly, House of Representatives, since 1972, Mr. Crawford has been instrumental in the increased social and political awareness within the African-American community. He is active in various activities addressing school desegregation, education equity, penal reform, prisoners' rights, unemployment, community revitalization, community economic development, civil, and human rights issues.

Joseph Taylor: A professor emeritus of sociology, special assistant to the vice president, Indiana University Purdue University at Indianapolis [IUPUI], Mr. Taylor instituted the desegregation plan ordered for the Indianapolis Public Schools [IPS] system in 1973. A longstanding community, social and educational leader, Taylor is an active participant in various educational, civic, and social causes.

Woodrow Augustus Myers, Jr., M.D.: Senior vice president and corporate medical director, the Associated Group, Indianapolis, IN, Myers is an active state and national advocate for the prevention and treatment of acquired immune deficiency syndrome [AIDS], minority health, and public health.

Linda Clemons: Founder and president of such national community recognition programs as Living Legends in Black, the National Association of Women of the Rainbow, and the National Association of African-American Entrepreneurs, Clemons is an active community leader and motivational speaker concerned with the increased social, educational and economic empowerment of African-Americans across the country.

I ask my colleagues to join me in saluting these fine citizens for making Indianapolis, IN, a great city to live in.●

## FAIRMONT STATE COLLEGE'S 125TH ANNIVERSARY

● Mr. ROCKEFELLER. Mr. President, today, I want to express my sincere congratulations to Fairmont State College, as the school celebrates its 125th year of higher education.

This educational institution, in Fairmont, WV, was first a teachers' school, established in 1865. It began in classrooms occupied in the basement of the Methodist Protestant Church and was known as the Fairmont State Normal School. The school sought to provide the community with qualified primary and secondary teachers since there was a shortage of teachers at that time. Staffed by only a principal and a teacher, the school enrolled 83 students in its first year.

In 1867, the institution was renamed Fairmont State College and a university curriculum was added to the teaching school. After relocating several times, the college found a home at its present campus in 1916, and 4 years later was transformed into a true college from its secondary status. In 1931, the name was changed to Fairmont State Teacher's College, concentrating once again on the principles and goals upon which the school was founded. During World War II, in 1943, the administration decided to concentrate fully on general purpose education and became accredited to offer bachelor of science and bachelor of arts degrees. The name was changed back to Fairmont State College, and it remains so named today.

Fairmont State College is the largest college, in West Virginia, currently educating over 6,500 students—including its community college enrollment. A broadened curriculum has attracted many nontraditional students, among them those who are the first member of their family to complete a college education and adults seeking to complete higher education degrees. This is an extraodinary achievement for the individual students, a tribute to Fairmont State College's leadership, and a genuine contribution to the community and the State of West Virginia.

The current president of the college, Dr. Rob Dillman, has pushed to provide greater academic opportunities at the school by implementing an honors program and revising the general education requirements that contribute to a well-rounded education. In 1993, the college will open their Mid-Atlantic Aviation Training and Education Center, which will educate and train students in aviation maintenance. This is but one example of how Fairmont State College is preparing students for today's increasingly competitive marketplace.

Fairmont State College is dedicated to its goal of stimulating the cultural, intellectual, and economic development of north central West Virginia. The college is actively involved in the community, and the students benefit from the close ties that have ensued.

I have a longstanding commitment to higher education, as does Fairmont State College. Education is one of the pillars of our society. Through education we have the opportunity to teach our children to become the leaders of tomorrow. It gives me great pleasure to commend Fairmont State College for its outstanding achievements in educating the people of West Virginia, and wish this fine institution continued success.●

## TRIBUTE TO JEAN W. STIMPHIL

• Mr. D'AMATO. Mr. President, it is my pleasure to rise today to pay tribute to an exceptional New Yorker who has been a role model for minority small business owners for years. Mr. Jean W. Stimphil, president and chief executive officer of Armrest Security Patrol, Inc., in Brooklyn, NY who has been named region II Minority Small Business Person of the Year.

In the competitive field of security guard and patrol agencies, it's common for only the larger firms to survive. Yet one small, minority firm, Armrest, is decidedly challenging that notion as it prepares to celebrate a decade of service with expected annual sales of almost $3 million. This, from a firm that began as a dream and grew to where it now employs 148 full-time workers.

With Jean Stimphil at the helm, Armrest continues to provide the public and private sectors with uniformed or plainclothed officers for services that include area patrols, armed or unarmed guards, bodyguards, or other more routine alarm responses.

Armrest, which has been enrolled in the U.S. Small Business Administration's [SBA] business development program since 1987, owes its success in part, because of its commitment to intensive employee training. Developing skills such as report writing, crowd control, first aid, and security and firearm handling, all contribute to create productive employees. This training helps prepare these individuals for the rigors of guard duty or other pursuits outside the firm.

This is a minority firm that ensures at each opportunity that other historically underutilized businesses, whether they sell uniforms, beepers, radios, or cars, benefit from their good fortune. Armrest continually relies on other minority suppliers for much of their supplemental needs.

Even with his sizable business demands, Mr. Stimphil is also active in his community. With memberships in such organizations as the Brooklyn Chamber of Commerce, the Minority Purchasing Council of New York and New Jersey, the Caribbean Business Exchange, the Caribbean Action Lobby, and the Caribbean Chamber of Commerce. Mr. Stimphil has consistently shown himself as a leader of his community.

Mr. President, during these days of economic hardships, small business has a hero. New York is very proud of Mr. Stimphil as he sets a great example of how minority small businesses can lead the way to economic growth.

President Bush has designated the week of September 27–October 3, 1992, as "MED Week" to honor America's minority entrepreneurs for their contributions to the Nation's economy. I ask my colleagues to join me in congratulating Mr. Stimphil, as he accepts this prestigious award and wish him luck as he continues to make New York proud.•

## TRIBUTE TO STANLEY STRADER

• Mr. LUGAR. Mr. President, I would like to take this opportunity to honor Mr. Stanley Strader for his service to the Indianapolis southside community on the city-county council.

Stan Strader served with distinction for 12 years from the 23d District. He was chairman of the Community Affairs Committee and a member of the Housing Task Force, where he was outspoken for the inclusion of the poor. He is a straight shooter, an excellent debater, and a committed public servant.

Many will remember him as a member of the Wa-To-To-Wa-Simbas, Young Lions, and the impact they had on the southside of Indianapolis. In each instance, he was creating a positive atmosphere for others to prosper and grow.

During his tenure on the council, he held the first hearings regarding the infant mortality issue which his committee tackled with vigor; he worked extensively with the Barrington area on the development of the clinic and health center. He was responsible for over $20 million going into the 23d District, which enhanced the way of life for many citizens. He sat on the Community and Economic Development Policy Committee for the National League of Cities. He has raised moneys for the Indianapolis Urban League annual Bowl-A-Thon for 4 years.

Stan has spoken to numerous organizations in several States utilizing his own brand of logic and wisdom. The Indianapolis Star termed him to be one of the outstanding black role models in the city of Indianapolis.

His ability, his leadership, and his humor will be missed by those who have worked closely with him. I join all of the citizens of the Indianapolis in saluting this great Hoosier, while wishing Stan and his wife Diane the best as he starts his new career.•

## SENATE VETERANS AFFAIRS COMMITTEE ROOM

• Mr. SPECTER. Mr. President, an article by Mr. Mark Bowden of the Philadelphia Inquirer on September 27, 1992, contains a poetic description of the Senate Veterans' Affairs Committee room which, I think, my colleagues will find interesting and worthy of note in the CONGRESSIONAL RECORD:

* * * marbled walls rise to a high white ceiling sketched with gold inlay, from which is suspended an intricate and enormous colonial chandelier with a cascade of dazzling prisms and frosted glass bowls to soften the glare from its flame-shaped bulbs, which illuminate three long gleaming mahogany tables arranged in a U on a rich blue rug flecked with tiny tan diamonds, all framed and reflected by a mirror the size of Montana in a baroque bronzed frame, large enough to reflect the egos of the 11 assembled members of Congress, aging white men all, well-tanned, tailored and tonsorially top-notch United States senators, members of the Senate Veterans Affairs Committee, who are posing for their annual portrait.•

## DEADBEAT DADS

• Mr. D'AMATO. Mr. President, today I rise to urge my colleagues to support legislation that will provide an incentive for deadbeat dads to keep current on their child support payments. Deadbeat dads will finally get the credit they deserve—no credit at all.

This legislation, the Ted Weiss Child Support Enforcement Act of 1992 (H.R. 6022) requires credit reporting bureaus to include information on delinquent child support payments by deadbeat dads.

Right now, some States—including New York, allow child support enforcement agencies to report information about delinquent child support payments to credit reporting bureaus. Simply allowing child support enforcement agencies to report delinquent child support payments leaves open the possibility that delinquent dads may escape detection if this information is not reported to the credit bureau.

That is just not good enough. Dads who don't pay up should have their credit turned down. This bill would ensure that once a deadbeat dad was a total of $1,000 behind in child support payments, the delinquency would become a part of his credit history.

Most divorced women depend on child support payments in order to survive. Dads need to take this obligation to provide child support seriously. If dads cannot find it in their hearts to help their kids, they may change their minds when they find a hole in their pocket.

Mr. President, the economic security of children of divorced parents is an issue that is extremely important to me. I was the first original cosponsor of legislation that would make it a Federal crime to engage in interstate flight to avoid paying child support. Fathers who deliberately neglect their responsibilities would face fines or prison sentences under this bill. This bill, S. 1002, has passed the Senate and awaits action in the House of Representatives.

Deadbeat dads will certainly think twice about ducking their child support obligation knowing that this information will become part of their credit history. Mr. President, this legislation has widespread support—among mothers who are struggling to make ends meet as well as the credit bureaus that will be required to provide this information.

I urge my colleagues to pass this important legislation to make deadbeat dads who do not care enough to finan-

cially support their children feel it where it hurts—in the pocketbook.●

## INTRODUCING A NEW PUBLIC TELEVISION SERIES ENTITLED "THE WEST"

● Mr. DECONCINI. Mr. President, I rise today in support of a promising public television documentary whose mission is as grand in scale and scope as the land itself: the documentary is titled "The West." With rich history and book-like detail, this seven-part series will begin with the first European encounters with Native Americans and end with the birth of Hollywood in the early 1990's. This epic period in American history will unfold in living rooms—and later schoolrooms—across the country, illuminating the trials and tribulations of a cast of fascinating people.

WETA-TV channel 26, Washington's flagship public television station, is coproducing the series with Ken Burns and Stephen Ives, the highly qualified team who produced the acclaimed PBS series "The Civil War." General Motors, who sponsored the "Civil War," is again taking the corporate lead and helping to fund "The West."

"The West" promises a compelling account of what life as it was experienced by European explorers, the Indian Nations, American frontiersmen, cowboys, lawmen, and women and children. We will watch in awe as one historical event takes place after another before an unparalleled backdrop of the beautiful western landscape; the Great Plains, the rugged Rockies, and Sierra Nevada Mountains, the vast Sonoran and California deserts, table mesas and canyons, and the Pacific coast.

The first three episodes are titled "Rendezvous," "Yearly Multiplying Millions," and "Eureka!" During this time span of 70 years, beginning with the arrival of Anglo-Saxon explorers and their first encounters with native Americans, we will learn about an array of characters that, over time, animate the West. We will hear testimony from a narrator describing Francisco Vasquez de Coronado, the first white man to set eyes on the majestic Grand Canyon.

The explorers, Lewis and Clark, opened up the wild frontier for millions of settlers to move across in search for new opportunities. And the famous triumphant discovery of gold by John Sutter at his saw mill in Northern California marks the beginning of yet another migration to the West.

The last four episodes take us from 1861 through the dawn of the 20th century and the Hollywood era. Their titles are: "A Good Time To Go To War," "Fight No More Forever," "A World Destroyed," and "Oh Give Me A Home." These episodes explore the bold effort to tame and conquer the challenges of the West. The Civil War dominated the early part of this period, 1861 through 1865, and the war's significance had a profound effect on the development of the West, as the divisive nature of the era was continued by the seemingly endless conflicts between and among settlers and the Indian nations.

Ranchers like Granville Stuart and cowboys like Teddy "Blue" Abbott will capture our imaginations about what it was like to live in the Wild West through personal and unique biographies. With the continuing onslaught of new settlers, the land and its resources became exploited as axes fell on forests and mountains and rivers were harvested in the search for coal and other minerals.

Mr. President, I believe that "The West" will be a compelling public television event for all Americans, whether or not they are native westerners. Without a doubt, "The West" will enrich our understanding of an epic period that defines American history, and I am looking forward to watching it. ●

## EMBARGOES

● Mr. KERREY. Mr. President, earlier last month, Vice President QUAYLE went to South Dakota in an attempt to draw distinctions between Republicans and Democrats on the subject of agriculture. On at least one issue—that of grain embargoes—it appears that the Vice President covered about as much ground as a young colt on the end of a longe line.

I can understand the Bush campaign's reluctance to give the Vice President free rein on such matters, so I thought that perhaps a more complete examination of the record was in order.

There have been four major agricultural embargoes over the past 20 years. Three were imposed by Republican administrations, and one by a Democratic administration.

On June 27, 1973, President Nixon embargoed the export of soybeans and cottonseed, and the meal, cake, and oils made from those commodities.

On October 4, 1974, President Ford imposed sales moratoria suspending both corn and wheat sales to the Soviet Union. Three days later, USDA announced a prior-approval system that ultimately restricted the export of corn, wheat, soybeans, grain sorghum, barley, oats, and related products.

The Ford administration imposed a similar sales moratorium again in 1975. On August 11 of that year, the Secretary of Agriculture called on the major grain companies to withhold further sales to the Soviet Union. On September 9, President Ford extended this moratorium through mid-October. The next day, the suspension was broadened to include Poland as well.

On January 4, 1980, President Carter announced an embargo against the Soviet Union, restricting United States sales of corn, wheat, soybeans, meat, dairy products, and related exports to that country. The partial embargo affected those quantities of grain in excess of the maximum guaranteed purchase levels specified by the bilateral United States-Soviet agreement in effect at that time.

According to a November 1986, publication by the U.S. Department of Agriculture entitled "Embargoes, Surplus Disposal, and U.S. Agriculture," "Unlike the trade interruptions of the mid-1970's, imposed to ensure adequacy of domestic supplies and to calm dramatic price movements, the 1980 embargo had little domestic basis." Indeed, the Carter embargo was imposed one week after the Soviet's invasion of Afghanistan. President Carter cited the threat to national security as the basis for the embargo. In my judgment, this reason didn't make that embargo correct, but it did make that action distinct, in a fundamental way, from the three Republican embargoes that preceded it.

For example, President Nixon embargoed oilseeds in 1973 because of tightening supplies and escalating prices for high-protein meal products. Similarly, President Ford's moratoria on grain sales in both 1974 and 1975 were driven by the administration's concern about short grain supplies and high commodity prices.

In other words, Mr. President, the three Republican grain embargoes had a common thread: They were all motivated by a desire to thwart market forces and artificially restrain the prices received by farmers. I guess the lesson here is that Republicans really believe their platform rhetoric on agriculture and the free market—to a point. And that point seems to be when farm prices get a little too high.

Finally, I might say, Mr. President, that it's understandable that the Vice President would spend so much time talking about the 1980 embargo, to the exclusion of previous embargoes. Such a narrow discussion gives him political advantage. It's also a subject on which he presumably is well-versed, since the acknowledged architect of that embargo, former National Security Adviser Zbigniew Brezinski, has served as adviser to the Bush-Quayle campaign.●

## TRIBUTE TO MAJ. GEN. CHARLES C. ROGERS

● Mr. ROCKEFELLER. Mr. President, I rise today to speak about a great man, a true hero of our time, and a role model in every sense of the word. Maj. Gen. Charles C. Rogers, a native of Claremont, WV, a graduate of West Virginia State College, and two-star general, was the highest ranking African-American ever to receive the eminently regarded Medal of Honor.

As commanding officer of an infantry battalion in Vietnam near the Cam-

bodian border, then Lieutenant Colonel Rogers won the Nation's highest medal by leading his outnumbered and heavily bombarded troops to withstand a vicious assault. Although seriously wounded, he refused to withdraw. Rogers was awarded the Medal of Honor following this noble display of all that the medal embodies: leadership, courage, strength of will, and of course—honor—all of which crystallized in this one man.

Charles Rogers' career was punctuated by many honors and merits; he was decorated with the Legion of Merit with Oak Leaf Cluster, Distinguished Flying Cross, Bronze Star with V Device and Three Oak Leaf Clusters, Purple Heart, and Parachutist Badge. The Medal of Honor, however, was the crowning glory of his exemplary 33-year career in active military service, and a perfect symbol of his uncommon valor and distinction, as a man, and as a soldier.

And while Major General Rogers did not prove victorious in his most recent, and final battle—with cancer—his struggle was equally as valiant and his glory surely remains undiminished.

In tribute to his timeless courage and heroism, I have taken part in dedicating the Cotton Hill Bridge in West Virginia to our fine West Virginian son, as a symbol of his constancy and stalwartness, and to ensure that Charles Rogers' essence remains a special part of the State of his birth, and that his spirit dwells in that niche of our hearts and minds that we carve out for remembrances of the noble and true.

Maj. Gen. Charles Rogers has been, and will continue to be, a role model and an inspiration to countless numbers of individuals, young and old, in and out of the military, and of all ethnicities, who are warmed by his courage and who recognize his heroism as something rare and beautiful.•

## A TRIBUTE TO DANIEL B. GRADY

• Mr. CRANSTON. Mr. President, I would like to take the opportunity to recognize an individual from my State whose life work has contributed greatly to a goal shared by all members of this body—a decent home for all Americans. Daniel B. Grady has dedicated his life to making this goal a reality. The homeless and disadvantaged, the thousands of families that struggle to get by—all have been empowered through his efforts to provide and maintain suitable living environments across this country. Dan Grady has championed this cause. He is a man of vision and foresight.

An MIT graduate, naval architect and marine engineer, Dan Grady transfered his brilliant technological skills from sea to land after World War II. In the 1950's, his concept of mass produced prefabricated housing components became a national standard for cost effective multifamily housing. But Dan has more than technical skill—he also has a keen political mind. He has provided affordable housing through the effective and responsible use of government programs. This is government working at its best and Dan deserves our praise.

I owe a particular debt of gratitude to Dan for his advice and good counsel through the years. As the Housing Subcommittee chairman, I've looked to Dan for his wisdom and action on many, many occasions. Dan has been committed to providing adequate housing to all Americans, especially those of low- and moderate-income. And I'm proud to have been part of that commitment.

Mr. President, I've asked for this time today not only to call attention to the accomplishments of this man but to extend to Dan and his family our best wishes and prayers. As I speak today, Dan Grady is at home fighting the greatest fight of all, the fight for life. Less than 6 months ago, he was here in Washington to receive the highest honor that can be bestowed upon a builder—induction into the Hall of Fame of the National Association of Homebuilders—and today he is at his home in La Jolla fighting what I truly hope will be a winning battle against cancer.

I've known and worked with Dan professionally, but our relationship is more than that—he is a trusted friend. When I faced my own bout with cancer, Dan was behind me, giving me the strength to survive and surmount the illness. I now hope to do the same for him.

God willing Dan will win this fight and return to help us in our ongoing efforts to solve the unmet housing needs of this country. When individuals like Dan Grady are among us, our own lives are ennobled. Today I ask the members of this body to honor Dan for what he has given to this Nation as a dedicated housing professional and for what he, in his life's work and deeds, represents. On behalf of Dan, his family, friends and colleagues, I thank you for this time.•

## UNEMPLOYMENT COMPENSATION

• Mr. BRADLEY. Mr. President, today's unemployment figures suggest that the precipitous third dip of this recession may have leveled off, but they offer little hope to Americans who are still seeking work after 10, 12, or 16 months out of a job. An unemployment rate that is virtually unchanged means that the economy is not creating new jobs for all those who have lost jobs month after month over the last 2 years. And while the jobless rate stagnates, actual jobs are being lost, not created, at a rate of 57,000 in September and twice that the previous month.

With all the attention that the media pays to minute changes in these statistics, I rise today to call our attention to a group of Americans we are in danger of forgetting: Those people who have been working, almost full-time, for many months, at finding a job. Many have steadily dropped their expectations for salary, for interesting work that uses their education, for full-time work, or for a job near home. They have done everything right, they are willing to do anything, and yet they are no closer to finding work than when the recession first knocked them onto the jobless rolls in 1990 or 1991. In my office 2 weeks ago, I met a young woman from New Jersey, well-spoken and well-qualified, who showed me a 10-page computer printout, in the tiniest typeface, listing every job she had applied for, with no luck. I admire her and those in the same situation for their amazing diligence, but after 2 years, this long recession is putting inevitable stresses on their families, their pride, and their sense of the future.

For a while, and despite the numerous hurdles put in the way by President Bush, we were at least able to hold these families together, fed and sheltered, by extended unemployment insurance, 33 weeks in my State on top of the regular benefit of 26 weeks and a small extension paid for by the State. But the most recent emergency extension we passed, in order to minimize the cost and avoid another Presidential veto, simply extended the 33 week extension to people who exhausted their regular State benefits after July. It did not extend benefits for those who could not find work after exhausting all their State and Federal benefits.

Thus those who had been out of work longest began, for the first time, to lose unemployment benefits altogether. The largest number lost their benefits on July 4, a date that many of them consider a particularly cruel joke given what the American dream has meant for them in the 1990's. In New Jersey, more than 40,000 long-term unemployed lost all their benefits in July. Nationwide, more than a quarter of a million workers lost their benefits. Both today's statistics and these workers' experience makes clear that our economy is not creating enough jobs to absorb them back into the work force.

I rise today to commend my colleagues from Massachusetts, Senators KENNEDY and KERRY, for calling our attention to this problem and putting forth a remedy. They have introduced a bill, S. 3053, which would provide those who have lost all their benefits with an additional 13 weeks of unemployment assistance. Thirteen weeks to tide those who have been out of work the longest over for another 4 months, by which time I hope we will see a real turnaround, is very little to ask. Yet the magnitude of the problem is clear from the cost of this modest measure: about $5 billion. Under current budget

rules, even though there are enough funds saved as intended in the Federal trust fund to provide these benefits, we will need to find a tax increase or entitlement cut elsewhere in the budget to offset this cost.

Last week, the Senate passed a tax bill that raised $30 billion in new taxes, and sent $25 billion right back out the door in tax breaks for special interests. I fought to take $4 billion of the revenues raised and use it for the urban economic recovery that the bill was supposed to promote, but my view did not prevail. By the same token, we could have used just $5 billion of the new revenues for continued unemployment benefits rather than special-interest tax breaks, but we do not seem to have our priorities straight.

We will not have another chance before January to do the right thing for the unemployed. Today's numbers provide no hope that things will steadily improve after we adjourn. I would like to take this opportunity to ask Senator BENTSEN and the Finance Committee staff to work together with Senator KENNEDY to find an offset for this extension that is both good policy and acceptable to the Senate. If they can find it in the last days of this session so that we can tide people over while we are out, that would be ideal. More realistically, I suggest we use the recess to look at ways to pay for this extension so that if the job market remains stagnant in January, we can act promptly to get more assistance to those who have been out of work the longest.

I applaud Senators KENNEDY and KERRY for putting forth this proposal. I would prefer that it included a way to pay for itself, so that it would not risk increasing the deficit that is itself dragging our economy down. I hope that we can work together and with the Finance Committee in the coming days or weeks to turn it into a bill that is fully paid for so that it can be enacted quickly.•

## CONFERENCE COMMITTEE AGREEMENT ON S. 2, THE NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

• Mr. DURENBERGER. Mr. President, I regret that a longstanding previous commitment required me to be absent from today's vote on the motion to end debate and to move to a vote on the conference committee agreement on S. 2. Had I been present, I would have voted to oppose that motion.

Because of my strong interest and involvement in this legislation in the Labor Committee and on the floor, I also wanted to take this opportunity to place on the record my reasons for this position and my intention to oppose the conference committee's report should it come to a vote.

At the same time, Mr. President, I wanted to take this opportunity to renew my commitment to working with the President, with Secretary Alexander, and with my colleagues on both sides of the aisle to design a positive and effective National Government role in support of education improvement and education reform.

Before I do that, however, I would like to thank our chairman, the distinguished Senator from Massachusetts, for his vision and for his leadership on this legislation over the last 18 months.

He and I have worked very hard over this past year to make this legislation a bipartisan vehicle that helps promote real and meaningful change—a vehicle that recognizes the essential role that States can and must play in initiating real education reform.

We were joined by others on this side of the aisle in this effort—including Senator LIEBERMAN, Senator KERREY, and Senator NUNN, and by many others on this side, as well.

So, when this bill passed the Senate last January, it was a bipartisan bill I could easily support.

The Senate's version of S. 2 included explicit authority for States to use Federal funds to help start new schools, including new charter schools like those now emerging in Minnesota.

And, when it last left this body, S. 2 explicitly recognized a role for States in expanding parent choices and in promoting real reform in how we teach and learn in our Nation's public schools.

Unfortunately, Mr. President, the Democratic majority in the House of Representatives did not share that vision for real reform in American education.

The House majority refused to explicitly recognize a State role in starting new schools or encouraging new ways of organizing and managing public schools outside the traditional local education agency monopoly.

The House Democratic leadership would not allow the word "choice" to be even included in the bill—not even the more limited extension of choice among public schools and between public school districts that the vast majority of Americans now either has or is eagerly demanding.

In fairness, Mr. President, I must acknowledge that this failure to acknowledge the importance of States in promoting school choice and new schools is not attributable only to the House Democratic leadership.

The Bush administration has also contributed its share of rigid lines drawn in the sand. In particular, the administration's insistence on premising its education reform initiative on a traditional and outdated definition of public and private education has also helped preclude passage of meaningful education reform legislation in this session of Congress.

### REWARDING THE STATUS QUO

Beyond the politics and polarization, Mr. President, a quick reading of this bill identifies my single biggest concern with the conference committee's agreement on S. 2.

At least $8 out of every $10 authorized by this legislation, must go to existing public schools through local public school boards and administrators. That was a condition insisted on by the House majority. Unfortunately, it is not a formula for promoting real education reform.

In fact, this insistence on rewarding the status quo is a 180 degree turn from the direction that real education reform is now taking in virtually every State in this Nation.

This doomed strategy for reform also ignores the leadership and the initiatives we have seen from President Bush and Secretary Alexander over much of the past 4 years.

And, finally, this conference committee agreement reflects a degree of election year partisanship that has no place in crafting legislation so important to the future of America's children, and to the economic future of this Nation.

In considering this legislation, Mr. President, I believe it is important to point out this is not an affirmative statement of Federal support for education reform.

This legislation was crafted as a direct challenge to the American 2000 initiative launched by President Bush 18 months ago. It has been described in negative, more than positive, terms—by what it doesn't include, rather than what value it will add to our Nation's schools.

There is no question that some good could come from individual school initiatives funded by this piece of legislation.

But, to those most strongly supporting this bill I would only ask, "Is this where you would put the next $800 million in new Federal funding to improve the quality of education in this country?"

I don't think the answer to that question would be "yes."

And, so, Mr. President, I cannot in good conscious support this conference committee agreement. I take this position with great sadness and considerable reluctance. But, I believe we can and must do better.

We will have that opportunity to do better in next year's reauthorization of the Elementary and Secondary Education Act. I intend to be deeply involved in that reauthorization—a process which must also take place in a less partisan and more productive environment.

### LEGISLATION IGNORES BUSH INITIATIVES

Mr. President, as a way of reinforcing the importance of using Federal policy to support State level education initiatives, I want to use this opportunity to comment briefly on several aspects of Minnesota's education reform agenda.

But first, I would like to remind all of us that, regardless of our disagree-

ments about means—the underlying goals of this legislation must be traced to the Charlottesville summit and to the leadership we've seen on education from President Bush and Education Secretary Lamar Alexander over much of the past 4 years.

By drawing together the chief executives of the 50 States, and by clearly articulating 6 national goals for education, President Bush placed a new focus on the Nation's interest in improved quality through real education reform.

And, by launching the America 2000 initiative 18 months ago in St. Paul, MN, President Bush challenged all of us in the Congress to join with him, and with the Governors and legislatures of our States, in a new Federal-State partnership to help achieve those goals by the end of this century.

I wish there had been more recognition of that leadership in this bill, Mr. President. In particular, I wish there had been more explicit authority in this legislation for States to help start new schools and to help facilitate parent choice among schools.

Because of the importance of these two types of innovations, I would like to take a few minutes to offer just two examples of how they are being implemented in Minnesota—with growing interest in the first of those two innovations in a number of other States, as well.

SCHOOL CHOICE AND CHARTER SCHOOLS

Mr. President, Members of this body who follow education issues closely know that I have spoken a number of times over the past 2 years on the merits of Minnesota's leadership in allowing school choice and in encouraging the development of more—and more diverse—school choices.

I honestly believe that, had we more closely followed the lead being taken by Minnesota and a number of States, we would have made much more progress this year in reaching consensus on this bill, and in reaching consensus on a new national government role in encouraging education reform.

That lack of consensus is most obvious in the legislative logjam we've experienced this year over public and private school choice—a logjam that has left me and many other supporters of education reform at the national level deeply disappointed.

My own strategy to break that logjam has been to try to get past the conventional thinking, to get past the partisanship, and to change the focus of the debate.

One premise I've adopted in accepting that challenge is that we'll never agree on a new national government role in education unless we're first willing to redefine what we mean by American public education.

I also believe it's unwise to raise expectations about new break the mold schools funded at the national level—whether they're funded by Federal tax dollars or by private donations or private investors—unless there's also a legal and financial infrastructure out there in the States that can sustain and replicate new schools on an ongoing basis.

Fortunately, we're starting to see developments in the States that make me optimistic that we can refocus the debate and that we can redefine what we mean by American public education.

In Minnesota, we're gradually learning that public education should be defined by outcomes—and by principles and values—not by rigid and imput oriented mandates and rules.

As long as publicly defined outcomes are met—and as long as core principles and values are not violated—we're learning that public education can be delivered in an amazing number of ways.

Minnesotans are also coming to realize that the list of core values and principles we've traditionally associated with public education really isn't all that long or complicated.

Public education does not charge tuition and is universally available.

Public education is nonsectarian.

Public education does not discriminate on the basis of race, or sex, or physical or academic ability.

And, public education is accountable to both taxpayers and the electorate.

Public education is not defined by how many hours there are in the day, or by how many school days there are in the school year, or by who hires the teachers, or by who owns the buildings.

Once we're willing to redefine public education, a lot of what's been holding up the education reform debate here in Washington doesn't really need to be an issue.

Under this broader definition of public education, parents and teachers and community groups should be able to own and run new public schools.

Each school can be tailored to meet the differing needs of the kids it serves.

Accountability can be maintained through contracts that define outcomes—contracts that don't get renewed if those outcomes don't get met.

And, finally, public education can serve the interests of kids—of student/learners—and, not be overly preoccupied with the interests or convenience of adults.

One way to implement this broader definition of public education is through charter schools.

Under a new law passed just 16 months ago, Minnesota's charter schools must be authorized by a local school board and the State board of education. They must employ certified teachers and may not teach religion or charge tuition.

Minnesota's charter schools may not discriminate on any basis in admitting students. And, they must have a outcomes-based contract with their sponsoring school district—a contract that may be terminated if the agreed upon outcomes aren't met.

Once they meet these conditions, Minnesota's charter schools are exempt from all other rules and mandates except health and safety regulations. And, they receive the same combination of State, local, and Federal aid that they'd receive as a traditional public school.

Proposals for new charter schools are emerging throughout Minnesota. They're all different.

And, despite continued resistance on the part of some parts of the education establishment, four Minnesota charter schools have now been approved to begin operations during the next year.

The first of those schools, called the City Academy, was authorized by the St. Paul School Board. It began operations on September 8 and will focus on dropouts and other hard to reach learners between the ages of 13 and 21.

City Academy will be run year round from a community center in an inner-city neighborhood. Students participated in the development of the proposal, which has received substantial startup funding from the Northern States Power Co., the Twin Cites principal privately owned electrical utility. Initial enrollment will be limited to about 30 students.

Three other Minnesota charter schools have also been approved by local school boards and by the State board of education.

They include a Montessori elementary school in Winona, an environmentally oriented K–12 school in the northeastern Minnesota communities of Toivola and Meadowlands, and a specialized middle school for deaf students to be located in the Twin Cities area.

At least a dozen other charter proposals are at various stages of consideration, including several that have been denied approval by their local school boards or the State board of education.

Minnesota's charter school movement could also get a major boost under a New American Schools Development Corporation grant that will help start as many as 10 new schools in the next year, with at least some of those schools likely to use Minnesota's charter schools law.

Although it has the first such law, Minnesota isn't the only State using charter schools to help redefine what we mean by public education.

Just last week, Gov. Pete Wilson signed a bill allowing the startup of 100 new charter schools in California.

Credible charter school proposals have also been offered in Connecticut, Michigan, Massachusetts, and several other States as part of broader education reform initiatives.

And, Detroit's board of education is taking a slightly different approach by allowing individual schools to opt-out

of direct management by the district's central administration.

These reform proposals are all different. But, the objectives behind them are all the same, to maximize the choices that students have by empowering parents, teachers, and communities to start and run less regulated, outcome oriented public schools.

In moving ahead to implement these objectives, we have a lot to learn. But, charter schools offer one promising way to meet all those objectives within the parameters of a new and broader definition of "public education."

And, at both ends of the current logjam over public and private school choice we would be wise to listen and learn from what's going on—out there—in the States we all represent here in Washington.

SCHOOL CHOICE SHOULD BE INFORMED CHOICE

Mr. President, Minnesota has the well-deserved reputation of doing more than any other State to give parents the right to choose the public school that their children attend.

Minnesota was the first State to allow high school juniors and seniors to take college courses at State expense.

Minnesota was the first State to offer interdistrict school choices to every student under Minnesota's open enrollment program.

And, with charter schools, alternative learning centers, and contract programs with private, nonsectarian schools, Minnesota has made it possible to better tailor learning environments to the diverse learning needs of today's students.

With this much choice and diversity in place, it's only natural that attention is now focusing on how to assist parents and students make wise choices. Without good consumer information, any program designed to use the marketplace to achieve desired objectives cannot fully succeed. And, the important investment we are making in the educational future of this Nation's young people makes choosing right an absolute necessity.

MINNESOTA'S SCHOOL CHOICE ADVISOR

That's why one important part of Minnesota's ongoing school choice strategy is to begin establishing a statewide system of student assessment and parent information and referral networks that will help parents and educators match students and schools.

As Minnesota Education Commissioner Gene Mammenga has said, "Although we were first to enact and implement statewide parent choice in selecting schools, we must now empower parents further by ensuring that the essential information is available for making informed choices."

Minnesota's answer to that challenge—called School Choice Advisor—is actually a public/private venture being developed by the Minnesota Department of Education, School House magazine and PeakSolutions, a computer software and data base development company.

School Choice Advisor is designed to be an educational tool for both parents and schools. Like information and referral programs for other public services, it involves collecting and processing information on characteristics and programs in each of the State's schools.

But, it also will interview both parents and students to determine their interests and needs and the kind of programs they want and will benefit from.

Parents and students will benefit from a program like this by being able to make better informed school choices. And, Minnesota Department of Education officials are making special efforts to involve low income parents in this program by making it easily accessible and free of charge.

Schools will also be able to use the parent/student assessment information being gathered to help assess what they have available and to adapt and add programs that parents and students want and need. The information be very helpful to the State department of education and State policymakers in planning and evaluating the needs and capabilities of the State's schools.

OPPORTUNITIES IN NEXT YEAR'S REAUTHORIZATION

Finally, Mr. President, I would prefer to think of today's vote, not as an end, but as the beginning of a commitment by this body to define a positive and effective role for the National Government in supporting real education reform.

With that objective in mind, let me take a moment to briefly look ahead to next year's reauthorization of the Elementary and Secondary Education Act, and the opportunity that reauthorization represents as we continue to work toward a national consensus on education improvement and education reform.

I'm personally hoping, Mr. President, that next year's reauthorization won't simply be an exercise in fixing and fine tuning existing Federal education programs. Nor do I hope that next year's reauthorization will focus only on the size of the Federal Government's financial commitment to education or only on an endless debate over how that commitment is distributed fairly among the States.

My hope is that next year's reauthorization will help develop the new consensus on the National Government's role in education reform that was so sadly lacking in the conference committee report we are considering here today.

For my part, I'd like to suggest several goals for the reauthorization—goals that I personally intend to involve Minnesotans from all parts of the State in refining and translating into sound legislative proposals.

The first of those goals, Mr. President, is that we work to remove impediments to State and local reform initiatives that are now part of Federal law and Federal regulations. That may be our most important goal—to get out of the way of states and local schools that are on the cutting edge of change.

A second goal is to give further Federal support to States that are promoting school choice, through support for programs like Minnesota's school Choice Advisor and by allowing funds for chapter I and other Federal categorical programs to more easily follow whatever parent choices are authorized by State law.

A third goal, Mr. President, is to more explicitly assist States that are encouraging the emergence of more—and more diverse—school choices through startup funding for new schools, including charter schools and other innovative State programs that empower teachers, parents, and community groups to start and run new schools.

A fourth goal for next year's reauthorization is to encourage the entire community to assume more responsibility for organizing and financing the delivery of health and social services through schools. There are many important issues to be weighed in tackling this goal, Mr. President. But, I believe we must take on that challenge if we are to both focus our education resources where they belong and address the myriad of social problems that inhibit learning and that we've all too willingly dumped—without adequate support—or our schools.

A fifth goal, Mr. President, is to elevate the Federal Government's role in researching and evaluating the hundreds of education policy innovations we are seeing around the country. In particular, we need to assist the move we're now seeing toward defining, monitoring, and measuring educational achievement based on outcomes.

Mr. President, a sixth goal for next year's reauthorization is encouraging grassroots community support for motivating students and helping them and their families meet the rising cost of going to college. Later this week, I intend to introduce a bipartisan proposal to help achieve that goal through a national organization based in Minnesota called dollars for scholars.

And, finally, Mr. President, a seventh goal for this coming Congress is to further encourage a concept known as service learning. We can do that not only through the Elementary and Secondary Education Act, but also as we improve and reauthorize the National and Community Service Act we passed just 2 years ago. Many of our States are now discovering the value of practical volunteer experience in the community as part of an academic curriculum. We can and must do more to support those initiatives and we will have

that opportunity through both these important reauthorizations next year.

Mr. President, this is not meant to be an all-inclusive listing of goals for next year's reauthorization of the Elementary and Secondary Education Act. But, this listing is intended to affirm my own strong commitment to using that reauthorization to continue moving toward a national and bipartisan consensus on the Federal Government's role in support of the education reform efforts now going on around the country.

We need to be active and positive participants in shaping that consensus, in the interest of both this Nation and its future. We have neither the time—nor the minds—to waste.●

## UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time between the recess of the Senate this evening and reconvening on Saturday, October 3, be counted against the 30-hour time limitation of postcloture.

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

## ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12:30 p.m. on Saturday, October 3; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that immediately following the Chair's announcement, the Senate then proceed to the consideration of the conference report accompanying H.R. 5677, the Labor-HHS Appropriations bill under the conditions and limitations of the previous unanimous-consent agreement.

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

## PROGRAM

Mr. MITCHELL. Mr. President, it had been my hope that at this point I would be able to announce to Senators that there would be no rollcall votes tomorrow. We will, under a previous agreement, take up the Labor-HHS appropriations bill at 12:30 p.m., or as soon thereafter as the measure is received from the House.

It is my understanding that there has been no request for a recorded vote on that measure. There is an agreement limiting the time on the measure, and I expect that to pass without a recorded vote.

Following that, it is my intention to exercise the authority granted to me under a previous unanimous-consent agreement to proceed to consideration of the Department of Defense authorization bill. There has been no request for a recorded vote on that measure, and it is my hope that we will be able to complete on that measure within the time limitations in the agreement and that we will complete action on that measure without the necessity for a recorded vote.

Throughout the evening, negotiations have been underway regarding the substance and process for handling the pending National Institutes of Health authorization bill. Although the Senate has voted by an overwhelming margin to proceed to consideration of that bill, 85 Senators voting in the affirmative, 12 in the negative, under the rules of the Senate, the 12 opponents, although they constitute a very tiny minority of the Senate, are able to prevent action on the bill by further delays. That is what is occurring. I regret that very much.

The time is running on postcloture, and we will resume discussion of the matter tomorrow. I am unable to state at this time what the outcome of those discussions will be or what will occur with respect to that measure tomorrow. I regret this very much.

I accept the fact that under the rules of the Senate, 12 or 6 or 1 Senator can hold up the overwhelming majority of other Senators. I think that is especially regrettable in view of the importance of this legislation. But that will be the subject for debate possibly tomorrow, possibly later during the weekend.

I will, following consultation with the Republican leader, make a further announcement with respect to the schedule after tomorrow at this time. But as of now, we are going to deal with the two bills to which I previously referred. We will continue to be proceeding postcloture on the National Institutes of Health authorization bill. It is my hope that that matter can be resolved but if not, why, we will proceed under the rules as appropriate.

Mr. SIMPSON. Mr. President, I thank the majority leader, and indeed he has tried diligently to resolve this matter, and I want the majority leader to know that we have tried diligently on this side to assist him. We are ready and did present a proposal which was very near to acceptance and has to do not with the NIH issue here—that will be resolved as the Senate rules will determine—but it has to do with the energy bill and the possibility of objections with regard to that.

So I then assume and ask the majority leader that the time will continue to run on the issue of the motion to proceed here. It will expire approximately 8:30, 8:45 tomorrow evening.

Mr. MITCHELL. Mr. President, I have not calculated the time precisely. It will be 30 hours after cloture was invoked. But it will be sometime during the day tomorrow.

Mr. SIMPSON. And then is it the Senator's intent—and we will be very pleased to assist on this side of the aisle processing the conference committee reports—not to have a Sunday session?

Mr. MITCHELL. I had made no decision in that regard. It is my hope not to have a Sunday session, but if it proves to be necessary to advance the National Institutes for Health authorization bill, that may be necessary. It depends in part upon the progress of that matter. We will have to wait and see what happens tomorrow.

Mr. SIMPSON. And at any time that takes place, then there will be a cloture motion filed with regard to the bill itself?

Mr. MITCHELL. That is correct.

Mr. SIMPSON. And we will go to a vote on that, a rollcall vote, and if cloture is obtained, which is likely in view of the previous vote, we will go forward with the 30 hours and be able to then work out an agreement to process conference committee reports?

Mr. MITCHELL. That is my hope.

Mr. SIMPSON. I thank the leader.

## RECESS UNTIL 12:30 P.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 10:24 p.m., recessed until Saturday, October 3, 1992, at 12:30 p.m.

## NOMINATIONS

Executive nominations received by the Senate October 2, 1992:

DEPARTMENT OF DEFENSE

SEAN CHARLES O'KEEFE, OF VIRGINIA, TO BE SECRETARY OF THE NAVY, VICE H. LAWRENCE GARRETT, III, RESIGNED.

THE JUDICIARY

WILLIAM P. DIMITROULEAS, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE JAMES C. PAINE, RETIRED.

HENRY W. SAAD, OF MICHIGAN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN VICE HORACE W. GILMORE, RETIRED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

JENI BROWN NORRIS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE MARY SHANNON BRUNETTE.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

*To be vice admiral*

REAR ADM. (SELECTEE) DOUGLAS J. KATZ, U.S. NAVY, [redacted]

THE FOLLOWING-NAMED REAR ADMIRAL (LOWER HALF) IN THE COMPETITIVE CATEGORY OF ENGINEERING DUTY OFFICER OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR TO AS PROVIDED BY LAW:

ENGINEERING DUTY OFFICER

*To be rear admiral*

REAR ADM. (LH) EDWARD STILLMAN MCGINLEY, II, [redacted] U.S. NAVY.

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# HOUSE OF REPRESENTATIVES—*Friday, October 2, 1992*

The House met at 9:30 a.m.

The Reverend Monsignor Michael J. Bransfield, director, Basilica of the National Shrine of the Immaculate Conception, Washington, DC, offered the following prayer:

Let us place ourselves within the presence of God. We pray, Lord, that You will give us the strength to influence our world with Your grace and You in mind. We ask, Lord, for greater insights and strong convictions to do what is right and avoid evil in our own lives. We hope, Lord, that we will be instruments in Your hand and to bring harmony and peace in our homes and on our streets. Amen.

## THE JOURNAL

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

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

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from West Virginia [Mr. WISE] please come forward and lead the House in the Pledge of Allegiance.

Mr. WISE 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.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive up to 15 requests on each side for 1-minute statements.

## PASS CAMPAIGN FINANCE REFORM SO THE VOICE OF THE PEOPLE CAN BE HEARD

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

Mr. MAZZOLI. Mr. Speaker, tons of newsprint and gallons of ink will be spread on the record trying to explain the Perot phenomenon. Let me try one explanation of my own.

I think that Mr. Perot represents millions of Americans who feel that Government does not represent them, does not hear their pleas, and does not answer those pleas, because of static created by large political action committees and large special interests.

I would refer to a Federal Election Commission report of last month analyzing the first 18 months of the 1992 election cycle; $103 million has been donated by political action committees to candidates; 90 percent of that, over $90 million, has gone to incumbents. In my case I do not take political action funds, and I find that that promotes a very strong grassroots effort.

Let me say that if Mr. Perot rearranges the chairs in a way that the President loses in November, I think that the President's very unwise and unnecessary veto of the campaign finance reform bill will be at the heart of it. I believe, furthermore, if we can pass campaign finance reform, then I think those millions of Americans will believe again that their Government represents them.

## FAREWELL ADDRESS OF MEMBER TO HIS COLLEAGUES

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

Mr. ALLEN. Mr. Speaker, when I came to this House 11 months ago, I came with a mission: To fight for the working taxpayers of Virginia and the Nation.

And when I held up my hand to take the oath of office, I brought with me a set of principles to guide my goals, ideas, and plans for my service here. I held no grand illusions as to how this body operates and certainly knew that there was much room for improvement. Indeed, a basic tenet of my campaign was the need for a change in the way Congress operates.

Sadly, the operation of the Federal Government is worse than I had anticipated. This House and the Federal Government continues to lack proper discipline and accountability. Congress must change the way it operates and learn to say "no" to excessive spending and incessant meddling into prerogatives of the States and the people.

While I have had the privilege of presenting my ideas and the ideas of Virginians to this body, I regret that there was not time to accomplish more. Thanks to redistricting, I was not able to seek reelection, Mr. Speaker. But the fact that I will not be here on January 3, 1993 does not alter my belief that the fight must continue. Ideas are far more important than any individual.

As I delivered my maiden speech to the House, I quoted Thomas Jefferson and a passage from his 1801 Inaugural Address: "Government should not take from the mouths of labor the bread it has earned," he said.

Not only does this Government have an appetite for the hard earned wages of our workers, it continues to spend far more than the enormous amount of revenue it takes in. Indeed, the greatest scandal in our Government was not the House bank. Instead, it is uncontrolled deficit spending. We need a constitutionally required balanced budget and line-item veto authority for the President so that we do not load future generations with perpetual debt. This is not merely a political issue, as you and the majority party have treated it, Mr. Speaker. It is an issue which requires immediate action and I urge you and my colleagues to make tough decisions about reducing wasteful spending and cutting the deficit before it is too late. While I know that when some of us who vote against appropriations bills which increase spending are chastised, we must muster a majority to take a stand and not be bought by a trinket or two included for our own district.

As you reduce the burden on working taxpayers, so should the Congress cut the number of regulations imposed on businesses which provide jobs for our citizens. We need to give people an incentive to invest. We can have a country whose prosperity knows no bounds, if only we are brave enough to allow that opportunity for prosperity to occur. Employers must not be enslaved by the shackles of oppressive taxation, Government interference and overregulation. And to remind Congress what the real, human impact is of this type of nannyism, Congress must have the courage to subject themselves to—and not exempt themselves from—the laws and regulations they impose on individuals and businesses.

While Congress is in the process of internal reform, it must make a number of other changes as well. The number of legislative select committees, which are nothing more than costly window dressing gimmicks, should be reduced and eliminated. Standing committees with similar jurisdictions should be merged to cut costs. Frivolous congressional perks and privileges must end and Members, as leaders, should not become entrenched, out of touch Representatives. A set time limit for Congress to meet should be established with a permanent adjournment date. And pay should be withheld from Congressmen if the budget is not enacted on time.

☐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.

Most importantly, Members ought to spend more time in their districts, listening to the real concerns of their constituents. And, at the same time, Members should communicate with and inform constituents about the issues and questions facing Congress. There is no way our leaders can have all of the answers, Mr. Speaker. But I have found that my constituents have a tremendous amount of knowledge, wisdom, and ideas to share about how their Government should operate. Their guidance has been critical to my decisionmaking process while I have served here.

Mr. Speaker, I have had a rare opportunity this year—one that only a few Americans have known. When I was sworn in last November, I said that I stood before my colleagues with great honor and with a tremendous sense of duty to the people of the Seventh District of Virginia. And so it has been.

But I also said that I did not intend to be a stump and would roll up my sleeves and get right to work. Even though my time here was short, I can truthfully say that I don't think I disappointed too many of my colleagues after that speech. I have tried hard to do my duty for my constituents in Virginia with the same energy and dedication which they expect and which they well deserve.

The same commitment and determination which burned in me when I decided to run for Congress still burns in me today. I expect to continue my work, not to reinvent Government, but to return to the purposes for which the Government was created by the people: to protect life, liberty and property, and not to be an oppressive enemy or meddlesome nanny.

And I know that this same commitment and determination still burns in many of my friends and colleagues who will return next year and hopefully in some of the new Members who will come in with them. We are outnumbered now. But to those warriors who, in the months and years ahead, want to, and have the ability to, change the direction of our country and this Congress for the better, I offer two words of encouragement: "keep fighting."

## A NATIONAL HEALTH CARE PLAN TO KEEP AMERICANS WORKING

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

Mr. WISE. Mr. Speaker, the House is going to adjourn for good in a few days. My greatest regret is that Congress and the President have not yet acted on a national health care plan.

Several months ago I presented the case of the McPeak family in the eastern panhandle of West Virginia and the difficulties they were having in trying to get treatment for their two sons, Anthony and Thomas, both of whom have hemophilia. I reported to the Members that both parents were working but neither could get insurance. Let me give an update on what has happened with the McPeaks.

Today neither one is working. One son needs an operation. The treatments cost as much as $900 a day for one of the boys, so they did the only thing they know how to do, which was to go on public assistance so they could get a medical card. That is what they have come to.

Since that time, trying to meet their medical obligations, they have lost their home, their truck has been repossessed, and they are now seeking bankruptcy.

Mr. Speaker, when does this country recognize the need for affordable access to health care for everyone? I hope as this Congress adjourns and when it comes back in January the McPeaks will be on all of our minds, and the 60,000 West Virginians who signed petitions urging that this Congress act; that it will remember the McPeaks and vow that their travail, their anguish, hopefully will be addressed soon.

## MAKING IN ORDER ON SATURDAY, OCTOBER 3, 1992, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT, AMENDMENTS IN DISAGREEMENT, AND MOTIONS TO H.R. 5677, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that notwithstanding the provisions of clause (2) of rule XXVIII, that it be in order at any time on Saturday, October 3, 1992, or any day thereafter, to consider the conference report, amendments in disagreement, and motions to dispose of amendments in disagreement, to the bill H.R. 5677, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, and that the conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee on conference to dispose of amendments in disagreement be considered as read when called up for consideration.

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

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

## BAD DECISION IN THE MIDDLE OF THE NIGHT

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

Mr. GOSS. Mr. Speaker, in the middle of the night on Wednesday conferees made a bad decision—they chose expediency over efficiency. In my view, this decision was made in the interest of bringing an energy bill—any energy bill—to the floor for a vote before we leave town. The House bill included language banning future oil drilling in the eastern Gulf of Mexico until the year 2002. This language was designed to create a decade-long cushion to rationally study the need, the risks and the alternatives involved with drilling for oil in that region. That makes infinitely more sense than the annual scramble under current law to postpone drilling for at least 1 more year. The current system makes no one happy—it is uncertain and it is expensive and it focuses our energies on short-term plans rather than a much-needed long-term approach. Instead, the conferees, caught up in the rush to adjourn, allowed election-year anxiety to win out over the wise management of our natural coastal resources. Ignoring the challenge doesn't make it go away. Would it not make more sense to take the time to do this right the first time, so we would not have to come back and do it again?

## A ONE-ISSUE CAMPAIGN: JOBS FOR AMERICAN WORKERS

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

Mr. TRAFICANT. Mr. Speaker, Bush is quoting Truman, Clinton is quoting Kennedy, and Perot is quoting Perot. The problems in America have really produced this carnival. Think about it. After 40 years of sending American jobs overseas, America is bankrupt. In fact, I predict the next President will preside over an official depression.

America was once known for steel and automobiles. Now America is known for hamburgers and junk bonds. There is but one issue in this campaign. It is jobs for American workers. The White House is not going to create any new jobs by blasting Arsenio Hall. I think they should look at the policies, and Clinton, Bush, and Perot should all start thinking about jobs for Americans.

## INTRODUCING THE AMERICAN CONSUMERS HEALTH CARE REFORM ACT

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

Mr. GEKAS. Mr. Speaker, today I am introducing the American Consumers Health Care Reform Act, my own version of what we ought to do to attack the massive problems of health care in our country. This comes as a direct result of being in touch with the people back home. First, a questionnaire that we circulated to all our constituents through the procedure that we have established indicates that a substantial majority of our constituents oppose the Federal Government taking over and imposing its will on a national health care system. That is an important point.

□ 0940

Second, the concerns expressed in that questionnaire and in seminars that we held thoughout the district indicate concern about primary care physicians and the lack thereof. We address that in this bill.

About Medicaid and where it reaches and how it reaches the people who need care the most, we address that in this bill. And malpractice costs, and all of the other problems that we have seen that have affected our ability to meet our health care problems in this country.

The American Consumers' Health Care Reform Act will go a long way in the debate that is to come next year in providing a new system.

## EXTENDING UNEMPLOYMENT BENEFITS

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

Mr. DOWNEY. Mr. Speaker, the unemployment numbers today offer cold comfort to the tens of thousands of workers in the United States, and especially on Long Island who are out of work and are in the process of exhausting their unemployment insurance. The reality is that with today's unemployment numbers there are fewer people working in the private sector than ever before, cold comfort to a President who has ignored the problem of jobless Americans for too long.

But, Mr. Speaker, we have the opportunity in the waning days of this session to do something for the people who are exhausting their unemployment benefits. I have introduced legislation that would extend their benefits for 13 additional weeks. We need to do that because those folks have no other alternative but to either go on welfare or collect cans along the side of the road to keep their families together.

We have the time in the next couple of days. What we need is the political will and the wisdom to help these people by extending their benefits for 13 additional weeks.

## TAXING RIDICULOUSLY HIGH SALARIES

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

Mr. DUNCAN. Mr. Speaker, when I was growing up, I was batboy for several years for the Knoxville Smokies minor league baseball team.

I sold programs, and popcorn, and cokes at the University of Tennessee football and basketball games, and programs at the Knoxville Knights hockey games.

I was a big sports fan, and still am.

However I thought it had gotten ridiculous—even sickening—to read about baseball players being paid $5 and $6 million a season.

Now, though, things have really gotten out of whack.

Magic Johnson yesterday signed a one-season contract for $14.6 million—to play basketball.

Nobody can earn, or really deserve, that kind of money.

And when we are paying it to someone to play a game, well I think that is just pitiful.

I feel sorry for anyone who has a serious illness, and I have nothing against Mr. Johnson personally.

But something bad is wrong when a basketball player is given over $14 million for one season, and most men and women work hard all year long and are lucky to earn even $1 million in their entire lives.

I have been a strong opponent of higher taxes for many reasons—but I think the time has come to lower the taxes on the middle class and place a greater burden on those athletes, movie stars, and CEO's who earn such ridiculously high salaries.

## ADMINISTRATION AID TO SADDAM HUSSEIN

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

Mr. GEJDENSON. Mr. Speaker, some of our colleagues in the other body are uneasy with AL GORE'S historical review of the administration's failures in dealing with Saddam Hussein and coddling Saddam Hussein and aiding and abetting his military buildup and giving him the $5 billion in loan guarantees that helped Saddam build his army and invade Kuwait.

Mr. Speaker, if my colleagues in the other body are uneasy with AL GORE'S accurate review of history, maybe they should call on the administration to declassify April Glaspie's cables and discussions with Saddam Hussein. If the administration feels that they sent Saddam Hussein a message weeks before the invasion, let them show the American people. Declassify the cables from April Glaspie and tell the American people what was said to Saddam Hussein as he moved on Kuwait.

## CAN WE AFFORD THE DEMOCRATS?

(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, can America afford the Democrats?

The last time the Democrats controlled both the Congress and the Presidency, the answer was no.

You remember the malaise of the late seventies with Jimmie Carter. Taxes went up, inflation went up, unemployment went up, and our economy went down.

If Bill Clinton wins in November, this is what the Democrats have already promised to give the American people: Higher taxes, mandated leave, and socialized health care.

Who knows what other tricks they might have up their sleeve?

Mr. Speaker, history teaches us that the Democrats' radical agenda will destroy small- and medium-sized businesses. It will increase the presence of the Federal Government in our lives. And it will kill our competitive edge.

In November, the American people should remember this fact. While their rhetoric is nice, we simply cannot afford the Democrats.

## AMERICAN HEALTH CARE ACCESS AND IMPROVEMENTS ACT OF 1992

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

Mr. NICHOLS. Mr. Speaker, although America has the best health care system in the world, it is also the most expensive. We must find a way to preserve the quality of our system while making it more affordable to the poor, and more accessible to people in rural areas such as some parts of the Fifth District.

There is now a proposal that will both preserve the quality of our current health care and make it accessible to more people. It is called the American Health Care Access and Improvements Act of 1992.

The best part of the bill is that it will not add to the national debt. Yet, it will make it possible for all Americans to have basic health insurance and coverage against a catastrophe.

This bill incorporates several provisions already introduced and several new provisions, making it one of the most comprehensive reform bills in existence.

This bill will reform medical malpractice laws; it will increase the self-employed health care deduction to 100 percent; and it will standardize claims forms. These steps alone will hold costs

down enormously—in the billions of dollars. As a cosponsor of this bill, I urge you to support it.

## INTRODUCTION OF WELFARE EMPLOYMENT AND FLEXIBILITY AMENDMENTS OF 1992

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

Mr. SHAW. Mr. Speaker, I am pleased to introduce the Welfare Employment and Flexibility Amendments of 1992. This is one of four welfare reform bills I and several of my colleagues will introduce today that were authored by President Bush, and which represent important steps we could take right now to help reduce welfare dependency and improve opportunities for those on assistance.

This first bill promotes work among families on welfare. It will expand the ability of States to involve AFDC recipients in workfare programs that require work to be performed as a condition of receiving assistance; it will allow States to expand emphasis on job search in their welfare-to-work programs, and finally, it will improve child support enforcement by requiring AFDC parents to provide all information necessary for establishing paternity of their children.

Mr. Speaker, these changes get at the heart of real welfare reform: Finding ways to get welfare families into the working world. President Bush has put together an excellent collection of proposals here, and we would do well to adopt these changes a soon as possible.

## OVERREGULATION AND LACK OF INCENTIVES FOR SMALL BUSINESS

(Mr. THOMAS of Wyoming asked and was given permission to address the House.)

Mr. THOMAS of Wyoming. Mr. Speaker, I rise today to talk about problems that have plagued our country for far too long—overregulation and lack of incentives for small businesses. Small businesses provide the backbone for our Nation's economy; overregulation has had a devastating effect on the competitiveness of the American private sector. Our role should be to create an environment conducive to competition in a global economy—one balancing regulation and free market forces.

In trying to solve some of this Nation's social problems, Government has too often mandated solutions which unfairly burden small businesses. What this body must realize is that if the private sector gets back on its feet, many of our other problems will take care of themselves. In fact, the best solution to many of these problems is quality job opportunities. We cannot solve the problems that persist in our country—the deficit, the economy, et cetera—without having a healthy private sector.

Another way to facilitate the growth of American small businesses is to create incentives to train and educate our work force. A fundamental need exists for this investment; more incentives of this nature are necessary in order for the private sector to compete in the emerging global economy.

Unfortunately, some in Congress have done just the opposite; they have tried to solve the Nation's problems at the expense of small businesses. Government must mend its ways; the results speak for themselves. America wants and needs a fundamental change of direction and it is our job to provide it.

## H.R. 5096, ANTITRUST REFORM ACT OF 1992

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

Mr. BILIRAKIS. Mr. Speaker, I rise today in the hopes of encouraging the House to avoid what I believe would be a serious misjudgment.

I am speaking of the possibility that H.R. 5096, the Antitrust Reform Act, might be considered in this Chamber during the few remaining days in this 102d Congress.

As anyone who has had the opportunity to review the legislation in question can attest—H.R. 5096 is far from a simple bill. Issues contained in the legislation involve not only the historical precedents of the modified final judgment and the subsequent review of this judgment by Judge Green—but indeed—the future of telecommunications policy in this country.

The Energy and Commerce Committee—on which I serve has taken thousands of hours of testimony regarding the subject of this legislation. We have reviewed several bills to modify the MFJ and substantively affect competitive relationships. This effort can and must continue.

If we rush H.R. 5096 to the floor in the waning hours of the 102d Congress, I believe we do a serious disservice to this institution. Without a companion Senate bill, this action will probably not result in new law, but serve only vested political interests. Our Nation deserves far more than that from its elected representatives.

Our Nation's economic competitiveness is tied to its telecommunications future. This future deserves far more than a cursory glance and a pressured vote; let us act, but act in the sober light of day, when every Member of Congress may fairly weigh that alternative policies which are advocated.

□ 0950

## GOVERNOR CLINTON'S ACTIONS SPEAK LOUDER THAN WORDS

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

Mr. LAGOMARSINO. Mr. Speaker, over the past few weeks we have seen the liberal Democratic press try to explain away Governor Bill Clinton's avoiding the draft.

Despite the growing number of conflicting stories Mr. Clinton tells about when and how he slickly avoided service, his underlying excuse is the same: He opposed the Vietnam war, so his draft dodging is OK.

But, the draft was not exclusively for Vietnam. During the Vietnam war, almost 9 million Americans served their country. Only 3.3 million went anywhere in or near Southeast Asia. Many of those—like our pilots over Hanoi—were not draftees. Over a million draftees never went to Vietnam. They served as a deterrent against communism in Western Europe, South Korea, Japan, the Philippines, and right here at home. Was Clinton also opposed to NATO and freedom in Korea? If not, then why did he not serve?

President Bush volunteered to defend his country. So, too, did Vice President QUAYLE. Bill Clinton did not. His actions speak louder than any words.

## TRIBUTE TO CONFEREES ON HHS BILL

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

Mr. EARLY. Mr. Speaker, I would like to just take this 1 minute to congratulate the gentleman from Kentucky [Mr. NATCHER] and the ranking member, the gentleman from Michigan [Mr. PURSELL].

Mr. Speaker, in the conference yesterday, when we marked up the HHS bill which was the most difficult bill we have had in 18 years, which the numbers, the moneys, were just not available for the people programs that we would like to put into them, but Chairman NATCHER and the gentleman from Michigan [Mr. PURSELL], speaking of them as the representatives of all the Republicans and all the Democrats, saw to it that people programs, the fuel assistance, that the $1,500,000,000 will be allowed to them for this upcoming year, and they went into NIH, and, Mr. Speaker, this is the first time in my 18 years on this subcommittee that the House report will be less than the amount recommended by the President of the United States.

But they put the money into the institutes by what the testimony was. They went specifically to the Institute on General Medical Science, which has

no constituency. It addresses all basic biomedical research and all diseases, but they put the money in there for that institute which has had more U.S. Nobel laureates than any other institute, and more than 50 percent of the U.S. Nobel laureates have come out of that institute.

The gentleman from Kentucky [Mr. NATCHER], the chairman, the gentleman from Michigan [Mr. PURSELL], who is leaving, and the gentleman from California [Mr. ROYBAL], who is also leaving, they did this country a tremendous service here yesterday when they marked up the bill and put the money where the people wanted the money.

## WHO WILL PAY MORE TAXES?

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

Mr. DANNEMEYER. Mr. Speaker, in an excellent column this morning by Paul Craig Roberts, he reports that the IRS has said that the richest 1 percent pay more than one-fourth of the Federal income taxes. The richest 5 percent pay almost half. The richest 25 percent pay 77.4 percent of the Nation's income tax revenue, and the richest 50 percent pay 94.4 percent.

What this tells us is that when Bill Clinton says he wants to tax the rich, what he is really talking about, if you have a job in America, you are, in the definition of Mr. Clinton, a rich person.

To send Bill Clinton to the White House, or as a Californian, Dianne Feinstein or BARBARA BOXER to the Senate of the United States to do something about controlling runaway Federal spending makes as much sense as sending a fire truck to a fire with its water tanks filled with gasoline.

## PEOPLE AROUND CLINTON: BIG SPENDERS

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

Mr. STEARNS. Mr. Speaker, Gov. Bill Clinton says he's for change. Well, that may be so, but Americans have to ask themselves "What kind of change?"

Judging by the people closest to Bill Clinton, I don't think the American people want the kind of change Bill Clinton will bring.

For Vice President, he has chosen a man who has spent his entire career in Congress. A man who has never run a business or met a payroll—who was rated one of the biggest spenders in the Senate by the National Taxpayers Union.

Bill Clinton's communications director is also from Congress. He made a lot of money last year working for the Democratic majority leader. His boss, the majority leader, was also rated one of the biggest spenders in Congress by the National Taxpayers' Union.

Bill Clinton's decision to hire these men should tell the American people something. If you want the same people who run Congress to run the White House, vote for Bill Clinton. If you believe in more government, more taxes and more spending—go ahead, vote for Bill Clinton.

Would it be a change? Yes, but not the kind of change America deserves.

## TIME TO PASS THE TORCH

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

Mr. APPLEGATE. Mr. Speaker, President Bush's experience should be a plus for America, but he has proved that it also can be a detriment.

You know, he likens himself to Harry Truman. But let me tell you that when Harry Truman was President right after World War II, here is what he did: established minimum wage, unemployment compensation, fair employment practices for all people, tax reform, Federal aid to housing, redeveloping America's slum areas, and of all things, a national health insurance policy. Now, George Bush would have vetoed all of these.

The difference is that Harry Truman was less rhetorical and more decisive. George Bush is more rhetorical and less decisive.

I think it is time the torch was turned to a new generation.

## CLINTONOMICS: FORMULA FOR DISASTER

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

Mr. JOHNSON of Texas. Mr. Speaker, if you thought the recent hurricanes were devastating, let me tell you about "Clintonomics"—the worst 4-year disaster to hit American workers in years.

Clinton says he is progrowth—but just listen to his whirlwind of ideas:

Democrat tax proposals that would cost businesses $120 billion a year. Health insurance that would inflate small business premiums by 90 percent, destroying 12 to 26 percent of all smart businesses in America.

Instead of creating jobs, 1.8 million Americans would be thrown out on the streets the first year, increasing unemployment by 1.5 percent.

You know, Clinton calls his plan—"putting people first" * * * but one has to ask, where is he putting them? Certainly not to work. Americans do not want, do not need, and do not deserve Clintonomics, a formula for disaster.

## CLINTON: TAXATION WITHOUT HESITATION

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

Mr. DREIER of California. Mr. Speaker, taxation without hesitation, that is what we have been promised by Bill Clinton. He says he will raise taxes by $150 billion. We know that he wants to raise more than that.

He says he wants to tax only the rich, but we know that he really means by that the middle-class wage earners.

He wants to raise more taxes to fund more spending programs, it is very apparent, and Bill Clinton is very, very good at raising taxes, Mr. Speaker. He is in the Arkansas Tax Hall of Shame. He is the largest taxer in Arkansas history.

We cannot trust Bill Clinton with an awful lot, but we know, Mr. Speaker, that we can trust him with this campaign promise. He clearly will give us taxation without hesitation.

Can we really afford a Clinton tax increase? Can we really afford the Democrat majority that is in the House?

The American people should keep these important questions in mind when they go to the polls 4 weeks from Tuesday.

□ 1000

## REPORT ON THE NORTH AMERICAN FREE-TRADE AGREEMENT

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

Mr. KOLBE. Mr. Speaker, Congress' Office of Technology Assessment recently issued a report on the North American Free-Trade Agreement. Unfortunately the report makes several false assertions, and before Members wave this report around on the campaign trail, they should be armed with the facts about NAFTA.

The OTA asserts that Mexican wages will remain low and therefore attract United States transplants. Not. Wages alone do not justify relocating a plant. In any event, NAFTA creates no new incentives for locating in Mexico that do not already exist.

The OTA report claims that NAFTA would tend to increase illegal immigration from Mexico. Not. The opposite will happen as NAFTA succeeds. Better jobs at better wages will be created in Mexico, that decreases the incentive for illegal immigration. A study done at UCLA predicts the agreement will decrease illegal immigration by 1.6 million. President Salinas has repeatedly said "We want to export goods, not people."

Finally, the OTA claims that NAFTA will hurt the environment. Not. A free trade with Mexico will help, not hurt,

the environment. Mexico is devoting a large share of national resources to environmental protection, and President Bush has proposed spending $250 million for new binational border environmental initiatives. This Congress has proven its irresponsibility and hypocrisy by axing the funds for border environmental initiatives while accusing the President of ignoring the problem.

Mr. Speaker, the OTA needs to go back to the drawing board. NAFTA will help the economy and the environment on both sides of the border—and it is time those facts were heard in this body.

## AFTER 4 YEARS WE ARE NOT BETTER OFF AS A NATION

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

Mrs. BOXER. Mr. Speaker, since last night and all of this morning, my colleagues on the Republican side of the aisle have used this House to campaign for the President of the United States and against Bill Clinton. And I have to say a couple of them even mentioned my name, and I am quite honored that I would rate in their remarks.

But I want to say this: You can stand up here all you want, minutes, hours, days, and try to trash Bill Clinton, but the basic argument that you cannot answer is why George Bush deserves to be reelected when so many Americans are suffering, when we have no economic strategy, when we are falling behind in the global marketplace, when our education system is now ranked No. 21, and we have slipped to No. 5 in competitiveness.

Mr. Speaker, we are not better off as a nation than we were when George Bush took office. He promised 30 million new jobs; he has got 29 million to go.

Time is running out, and what you are hearing from my colleagues—and they are friends—is desperation.

## REQUEST FOR A 1-MINUTE

Mr. ROHRABACHER. Mr. Speaker, I would ask unanimous consent to proceed with a 1-minute.

The SPEAKER pro tempore. (Mr. MAZZOLI). The Chair could not recognize the gentleman at this point. The Speaker earlier this morning announced there would be 15 Members from both sides of the aisle taken on 1-minutes. Later in the day——

Mr. ROHRABACHER. Mr. Speaker, I am asking for a unanimous consent of those present.

The SPEAKER pro tempore. The Chair has to, again, explain to the gentleman at this point the Chair is unable under the Speaker's guideline to recognize the gentleman to make that unanimous consent request. Later in the day the gentleman could seek recognition.

## PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 5095, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 587 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 587

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 587 is the rule providing for consideration of the conference report on H.R. 5095, the Intelligence Authorization Act for Fiscal Year 1993.

The rule waives all points of order against the conference report and against its consideration and provides that the conference report will be considered as read. The rules waived include those dealing with the 3-day layover period for filing of conference reports, for scope, and germaneness.

Both the chairman of the Intelligence Committee, Mr. MCCURDY, and the ranking minority member, Mr. SHUSTER, testified in support of the requests embodied in this rule.

Mr. Speaker, H.R. 5095 is the authorization for fiscal year 1993 of U.S. intelligence and intelligence-related activities, including those of the CIA. The National Security Act mandates that expenditures on intelligence activities be specifically authorized, so it is imperative that the House approve this measure before adjournment.

Mr. Speaker, the gentleman from Oklahoma [Mr. MCCURDY], and the gentleman from Pennsylvania [Mr. SHUSTER, are to be commended for their diligence and good work in this very sensitive area. I urge my colleagues to grant these waivers as they requested and approve the conference report.

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

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

(Mr. ROHRABACHER was allowed to proceed out of order.)

### WHY PRESIDENT BUSH SHOULD BE REELECTED

Mr. ROHRABACHER. Mr. Speaker, we were just challenged to explain why the President should be reelected by a lady who did not have the courage to make that challenge when we had the chance to reply. So I appreciate my colleague giving me this opportunity. I hope the voters in California noticed that BARBARA BOXER, who issued this challenge and then ran away, has been running away from a debate that her opponent in California. Why—oh, now, she is back on the floor. I hope your side——

Mrs. BOXER. Will the gentleman yield?

Mr. ROHRABACHER. No, I will not.

Mrs. BOXER. Well, the gentleman is——

Mr. ROHRABACHER. You have had your 1 minute.

Mrs. BOXER. The gentleman is telling untruths. I have debated my opponent twice.

Mr. ROHRABACHER. Mr. Speaker, I have the floor——

The SPEAKER pro tempore. The gentleman from Ohio yielded to the gentleman from California.

Mr. ROHRABACHER. We were asked exactly why people are unemployed in California and throughout the Nation, why people should vote for President Bush. That is because President Bush will do a better job in putting people back to work. That is because if President Bush would have had his chance to have his policies go through this Congress and not stopped by people like my colleague from California who is now running for the U.S. Senate, there would be more jobs in California and elsewhere. Instead, what we have had is a tax-and-spend Congress that has thwarted President Bush every time he has tried to put forward a policy of economic growth.

Mrs. BOXER. Will the gentleman yield?

Mr. ROHRABACHER. Not yet. I have not had my minute yet.

When the President put forward a policy of rationally reducing, reducing defense spending as it should be in a postcold war world, what we have instead on the other side is a policy of irrationally slashing defense, which will leave California workers unemployed and out of luck. And because Mr. Clinton may offer more welfare and Clinton may offer other social service jobs, we are interested, in California, in jobs in the aerospace industry, which will disappear and have disappeared because of the liberal policies espoused on the other side of the aisle, especially by my colleague who is now running for the U.S. Senate.

I would suggest that if people are disturbed that some of us are attacking

Clinton, that they stop thrashing Bush like they have for the last 4 years.

Mr. MCEWEN. Mr. Speaker, I yield myself that time which I may consume.

I rise in support of the rule for the consideration of the conference report on H.R. 5095, the Intelligence Authorization Act for fiscal year 1993. House Resolution 587 provides for consideration of one of the most important pieces of legislation that the House of Representatives must pass each year—the bill authorizing all appropriations for the intelligence and intelligence-related activities of the United States.

As explained by the gentleman from California [Mr. BEILENSON], who served with distinction as chairman of the Intelligence Committee during my years of service on that committee, this rule waives all points of order against the conference report.

The chairman of the Select Intelligence Committee, Mr. MCCURDY from Oklahoma, and the ranking member, a gentleman for whom I have the highest degree of respect, Mr. SHUSTER of Pennsylvania, came before the Rules Committee and together asked for this rule.

These two gentlemen do an outstanding job of directing our intelligence efforts. Once again, I repeat, this Intelligence Authorization Act is one of the most important bills brought to this floor. It often involves life or death matters for freedom's friends around the globe, and also our Nation's national security interests in the coming years.

The chairman and ranking member came to the Rules Committees and brought a bill to the floor under an open rule. Their conference report now requires points of order to be waived regarding the 3-day layover for conference report, and for a number of technical matters, including the scope of the provisions dealing with the National Security Education Program.

Mr. Speaker, I share the concerns that Mr. SHUSTER expressed before the Committee on Rules yesterday. This bill underfunds some of our most important intelligence programs. A capable intelligence system is not something that can be built and stockpiled like tanks and missiles—if you need more intelligence at some future date, you cannot turn some assembly line back on having killed your sources.

We saw the tragedy of that in the 1970's and have made tremendous strides in the 1980's. Now we are perilously on the edge of returning to the mistakes of the Turner years. We must nurture and support our intelligence system. To do anything less is irresponsible to our highest calling, keeping the Nation safe and free.

Mr. Speaker, I again thank the gentleman from Oklahoma and my friend from Pennsylvania for their dedication and for their leadership to our country. They certainly do their best protecting our Nation's intelligence secrets and interests. It is a pleasure to join with the gentleman from California [Mr. BEILENSON] in urging support for this rule so that we can consider the conference report.

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

Mr. BEILENSON. Mr. Speaker, we have no requests for time on this side.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

□ 1010

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

When I first was appointed to the Select Committee on Intelligence in January 1991, we were thrust into the middle of Desert Shield and Desert Storm. I received an instant lesson on the capacity and the dedication and the service of the intelligence community of our country, not only in national security matters per se, but in all things touching upon our Nation and what it means in the global community.

Since that time we have heard many people question whether or not we need an intelligence community any longer. Since the cold war is over, why do we have to watch what the Soviet Union, our arch enemy of the past, might or might not do? But events since then have shown that not only do we need an intelligence community to stay pat and to do its work in the intelligence gathering function for which it was formed, the need may be greater than ever.

The breakup of the Soviet Union presents problems of its own which our intelligence community must produce results in human and other types of intelligence so that we can be alerted as to what might happen in the Ukraine, in the Latvia and Estonia sectors of the former Soviet Union and, of course, in Yugoslavia. Is it not necessary for us to be on top of things in Yugoslavia and in Africa, in Somalia and in South Africa?

You name the spot and we still have a national security interest to project wherever trouble may arise in the entire world.

The Intelligence Committee on which I am proud to serve must be reauthorized.

Mr. Speaker, I will support the rule and the bill to follow.

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

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

The previous question was ordered.

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

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 399, nays 2, not voting 31, as follows:

[Roll No. 451]

YEAS—399

| | | |
|---|---|---|
| Abercrombie | Dannemeyer | Henry |
| Ackerman | Darden | Herger |
| Alexander | Davis | Hertel |
| Allard | de la Garza | Hoagland |
| Allen | DeFazio | Hobson |
| Anderson | DeLauro | Hochbrueckner |
| Andrews (ME) | DeLay | Holloway |
| Andrews (NJ) | Dellums | Hopkins |
| Andrews (TX) | Derrick | Horn |
| Anthony | Dickinson | Horton |
| Applegate | Dicks | Houghton |
| Archer | Dingell | Hoyer |
| Armey | Donnelly | Hubbard |
| Aspin | Dooley | Hughes |
| Atkins | Doolittle | Hunter |
| AuCoin | Dorgan (ND) | Hutto |
| Bacchus | Dornan (CA) | Hyde |
| Baker | Downey | Inhofe |
| Ballenger | Dreier | Ireland |
| Barrett | Duncan | Jacobs |
| Barton | Durbin | James |
| Bateman | Dwyer | Jefferson |
| Beilenson | Early | Jenkins |
| Bennett | Eckart | Johnson (CT) |
| Bentley | Edwards (CA) | Johnson (SD) |
| Bereuter | Edwards (TX) | Johnson (TX) |
| Berman | Emerson | Johnston |
| Bevill | Engel | Jones |
| Bilbray | English | Jontz |
| Bilirakis | Erdreich | Kanjorski |
| Bliley | Espy | Kasich |
| Boehlert | Evans | Kennedy |
| Boehner | Ewing | Kennelly |
| Bonior | Fawell | Kildee |
| Borski | Fazio | Klug |
| Boucher | Fields | Kolbe |
| Boxer | Fish | Kopetski |
| Brewster | Ford (MI) | Kostmayer |
| Brooks | Ford (TN) | Kyl |
| Broomfield | Frank (MA) | LaFalce |
| Browder | Franks (CT) | Lagomarsino |
| Brown | Frost | Lancaster |
| Bruce | Gallegly | Lantos |
| Bryant | Gallo | LaRocco |
| Bunning | Gejdenson | Laughlin |
| Burton | Gekas | Leach |
| Byron | Gephardt | Lehman (CA) |
| Callahan | Geren | Lehman (FL) |
| Camp | Gibbons | Lent |
| Campbell (CA) | Gilchrest | Levin (MI) |
| Campbell (CO) | Gillmor | Levine (CA) |
| Cardin | Gilman | Lewis (CA) |
| Carper | Glickman | Lewis (FL) |
| Carr | Gonzalez | Lewis (GA) |
| Chapman | Goodling | Lightfoot |
| Clement | Gordon | Livingston |
| Clinger | Goss | Lloyd |
| Coble | Gradison | Long |
| Coleman (MO) | Grandy | Lowery (CA) |
| Coleman (TX) | Green | Lowey (NY) |
| Collins (IL) | Gunderson | Luken |
| Collins (MI) | Hall (TX) | Machtley |
| Combest | Hamilton | Manton |
| Condit | Hammerschmidt | Markey |
| Conyers | Hancock | Marlenee |
| Cooper | Hansen | Martin |
| Costello | Harris | Martinez |
| Coughlin | Hastert | Matsui |
| Cox (CA) | Hatcher | Mazzoli |
| Cox (IL) | Hayes (IL) | McCandless |
| Coyne | Hayes (LA) | McCloskey |
| Cramer | Hefley | McCollum |
| Cunningham | Hefner | McCurdy |

| | | |
|---|---|---|
| McDade | Petri | Smith (IA) |
| McDermott | Pickett | Smith (NJ) |
| McEwen | Pickle | Smith (OR) |
| McGrath | Porter | Smith (TX) |
| McHugh | Poshard | Snowe |
| McMillan (NC) | Price | Solarz |
| McMillen (MD) | Pursell | Solomon |
| McNulty | Quillen | Spence |
| Meyers | Rahall | Spratt |
| Mfume | Ramstad | Stallings |
| Michel | Rangel | Stark |
| Miller (CA) | Ravenel | Stearns |
| Miller (OH) | Ray | Stenholm |
| Miller (WA) | Reed | Stokes |
| Mineta | Regula | Studds |
| Mink | Rhodes | Stump |
| Moakley | Richardson | Sundquist |
| Molinari | Ridge | Swett |
| Mollohan | Riggs | Swift |
| Montgomery | Rinaldo | Synar |
| Moody | Ritter | Tallon |
| Moorhead | Roberts | Tanner |
| Moran | Roe | Tauzin |
| Morella | Roemer | Taylor (MS) |
| Morrison | Rogers | Taylor (NC) |
| Mrazek | Rohrabacher | Thomas (CA) |
| Murphy | Ros-Lehtinen | Thomas (GA) |
| Murtha | Rose | Thomas (WY) |
| Myers | Rostenkowski | Thornton |
| Nagle | Roth | Torres |
| Natcher | Roukema | Torricelli |
| Neal (MA) | Rowland | Traficant |
| Neal (NC) | Roybal | Unsoeld |
| Nichols | Russo | Upton |
| Nowak | Sabo | Valentine |
| Nussle | Sanders | Vander Jagt |
| Oakar | Sangmeister | Vento |
| Oberstar | Santorum | Visclosky |
| Obey | Sarpalius | Volkmer |
| Olin | Sawyer | Vucanovich |
| Olver | Saxton | Walker |
| Ortiz | Schaefer | Walsh |
| Orton | Scheuer | Waters |
| Owens (NY) | Schiff | Waxman |
| Owens (UT) | Schroeder | Weber |
| Oxley | Schulze | Weldon |
| Packard | Schumer | Wheat |
| Pallone | Serrano | Whitten |
| Panetta | Sharp | Williams |
| Parker | Shaw | Wilson |
| Pastor | Shays | Wise |
| Patterson | Shuster | Wolf |
| Paxon | Sikorski | Wolpe |
| Payne (NJ) | Sisisky | Wyden |
| Payne (VA) | Skaggs | Wylie |
| Pease | Skeen | Yates |
| Pelosi | Skelton | Yatron |
| Penny | Slattery | Young (FL) |
| Peterson (FL) | Slaughter | Zeliff |
| Peterson (MN) | Smith (FL) | Zimmer |

NAYS—2

| | |
|---|---|
| Crane | Washington |

NOT VOTING—31

| | | |
|---|---|---|
| Annunzio | Flake | Mavroules |
| Barnard | Foglietta | McCrery |
| Blackwell | Gaydos | Perkins |
| Bustamante | Gingrich | Savage |
| Chandler | Guarini | Sensenbrenner |
| Clay | Hall (OH) | Staggers |
| Dixon | Huckaby | Towns |
| Dymally | Kaptur | Traxler |
| Edwards (OK) | Kleczka | Young (AK) |
| Fascell | Kolter | |
| Feighan | Lipinski | |

□ 1034

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate having proceeded to reconsider the 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," returned by the President of the United States with his objections, to the House, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was resolved that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate having proceeded to reconsider the bill (S. 323) entitled "An act to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved that the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The message also announced that the Senate had passed without amendment a bill, a joint resolution, and a concurrent resolution of the House of the following titles:

H.R. 1628. An act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes;

H.J. Res. 320. Joint resolution authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War; and

H. Con. Res. 366. Concurrent resolution requesting the President to return the enrolled bill (H.R. 3379) with respect to the authorities of the Administrative Conference, and providing for its reenrollment with technical corrections.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5488) "An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1993, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5518) "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 20, 27, 28, 33, 34, 44, 45, 58, 62, 80, 90, 92, 99, 100, 149, 151, 156, 157, 158, 160, 162, 165, 167, 172, 174, 185, 186, 194, 195, 196, 197, 198, 199, 200, 201, 202, 204, 205, 206, 207, 208, 209, 210, 212, 214, 215, 216, 217, 218, 220, 221, 222, 223, 224, 225, 226, 227, 228, 230, and 233, to the above-entitled bill.

## CONFERENCE REPORT ON H.R. 5095, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. MCCURDY. Mr. Speaker, pursuant to House Resolution 587, I call up the conference report on the bill (H.R. 5095) to authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of House Resolution 587, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, October 1, 1992, at page 29560.)

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Oklahoma [Mr. MCCURDY] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. MCCURDY].

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

Mr. Speaker, I rise in support of the conference report to accompany H.R. 5095, the intelligence authorization bill for fiscal year 1993. As is customary, the conference report contains classified, as well as unclassified, elements. A classified schedule of authorizations, which is incorporated by reference in the conference report, sets forth the funding levels agreed to by the conferees. The schedule of authorizations is described in detail in a classified annex to the joint explanatory statement of the committee of conference. Both of these classified documents may be reviewed by Members in the offices of the Intelligence Committee. I urge Members to take the time to examine these documents.

This conference report underscores the fact that intelligence programs cannot be immune from the spending reductions necessary if our Nation's fiscal ills are to be addressed. As passed by the House 3 months ago, this measure contained a 5-percent cut in the authorization levels for the activities, known collectively as the National Foreign Intelligence Program [NFIP] which provide intelligence to policymakers such as the President and Cabinet officers. The Senate made reductions which were similar in the aggregate to those made by the House.

In conference we were able to cut more than had been cut by either the House or the Senate. Under the con-

ference report, national intelligence programs—those undertaken by the Central Intelligence Agency, Defense Intelligence Agency, and the National Security Agency, among others—are reduced by nearly 6 percent from the levels requested by the President. This is a substantial reduction in funding, but I believe it can be accommodated by the intelligence community without any loss in essential intelligence capabilities.

Our intelligence agencies are at a critical juncture. The collapse of the primary reason for their creation and growth—the threat posed by the Soviet Union and its allies—has left them without a clear focus for their activities. Efforts by the agencies to reorient themselves away from their traditional targets have collided with the reality that the Federal deficit ensures that the competition among national security programs for a share of shrinking budgetary resources will be fierce for the foreseeable future.

I believe our response to this situation must seek to avoid two mistakes. First, we must resist the temptation to mindlessly slash intelligence budgets in the mistaken belief that the end of the cold war means the end of our need for reliable and timely intelligence about the challenges we will continue to face as a Nation. As a result, this conference report targets its reductions in programs the conferees believed to be outdated, ineffective, or redundant, while making investments for the future in new technologies and expanded capabilities.

The second mistake we must avoid is to try to shelter the intelligence budget from any meaningful reductions on the theory that the post-cold-war intelligence community must necessarily look, at least from a resource standpoint, like its predecessor. We must not allow intelligence activities to be justified by their ability to absorb available resources rather than by their importance to the national security. The reductions contained in this conference report are a first step in an effort to match roles and missions for intelligence with the money that can be spent on them. Our goal is an intelligence community that is the right size for the future. This conference report takes us toward that goal, but we have much more work to do before the goal is attained. The definition of roles and missions will be among the committee's most important tasks next year, and I hope that we can work cooperatively with the next administration in this important undertaking.

The conference report also recognizes that the changed world situation, and declining budgets, need to be reflected in the size of the intelligence community's work force. The conferees are proposing a plan that will reduce intelligence personnel levels by nearly 18 percent by 1997, while retaining sufficient flexibility to allow agencies to maintain the infusion of new talent necessary to ensure that they do not calcify. We must strike a balance between personnel levels and investment in new technologies and equipment. The implementation of sensible, phased reductions in personnel levels will be essential to achieving that balance.

In addition to the budgetary provisions, the conference report contains a number of legislative items which will be explained in more detail by the chairwoman of our Subcommittee on Legislation, Congresswoman KENNELLY. The presence of many of these items in the conference report was the result of cooperative efforts between the Intelligence Committee and other committees of jurisdiction, including the Armed Services, Judiciary, Post Office, and Civil Service, Government Operations, and Education and Labor Committees. The assistance of the members and staff of these committees is most appreciated. At the conclusion of my remarks, I would like to include in the RECORD an exchange of letters between myself and Chairman FORD of the Education and Labor Committee which reflects the mutual interest of the two committees in one of the provisions in this conference report.

Earlier this year, the chairman of the Senate Intelligence Committee, Senator BOREN, and I, introduced legislation to reorganize the U.S. intelligence community, which has grown in an uncoordinated fashion over the last 47 years. We had useful hearings in both committees on these bills. The Director of Central Intelligence [DCI] Gates, much to his credit, decided to implement administratively a number of structural changes that were similar to some of the suggestions in our legislation. I also believe that the recent decision by the administration to publicly acknowledge the existence of the National Reconnaissance Office reflects the spirit of change that was a part of these bills.

We were advised, however, that the amendment views as its exclusive prerogative the determination of the organization of the executive branch. This is an issue that we leave unresolved for now. We will monitor the performance of the DCI's changes, and continue to make suggestions for improvement. If legislation is determined to be necessary to eliminate duplication of effort, clarify lines of authority, and consolidate functions for more effective management, I will not hesitate to propose it.

The conference report does contain, in title VII, a codification of the duties and responsibilities of certain officials within the intelligence community, and a codification of the relationship between various components of the intelligence community. While affirming the situation that has long been assumed to exist both with the respect to these duties and responsibilities, and the organizational relationships, the codification does provide a useful and appropriate measure of clarity and certainty. In addition, one of the provisions in title VII will enhance the ability of the DCI to move funds and personnel between elements of the national foreign intelligence program. This kind of enhancement will assist in the effective discharge of the DCI's responsibilities as head of the intelligence community, as was recommended in my reorganization bill.

Before closing, I want to note the contribution made to the work of the committee by six members whose service will end at the conclusion of this session of Congress. The committee's ranking Republican, BUD SHUSTER, and I have forged a very good working relationship during a time of considerable change in the intelligence community. He has encouraged, and at times prodded, the community to play a more effective role in areas like counternarcotics and he has achieved considerable success. It has been a privilege and a pleasure to work cooperatively with him in a way that enabled the committee to adopt bipartisan positions on most of the issues which have come before it.

In addition to Mr. SHUSTER, the committee will lose the services of two of its subcommittee chairs, CHARLIE WILSON and BARBARA KENNELLY, as well as STEVE SOLARZ and WAYNE OWENS on the Democratic side and DAVID O'B. MARTIN on the Republican. These members have brought varied perspectives on national security issues to the committee and made important contributions to our work.

Mr. Speaker, the conference report on H.R. 5095 has, I believe, support on both sides of the aisle. It is good legislation for an intelligence community in transition, and I urge its adoption by the House.

Mr. Speaker, the letters referred to follow:

COMMITTEE ON EDUCATION AND LABOR,
*Washington, DC, September 25, 1992.*

Hon. DAVE MCCURDY,
*Chairman, Permanent Select Committee on Intelligence, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing concerning H.R. 5095, the Intelligence Authorization Act for Fiscal Year 1993, and the Senate amendment thereto.

Section 304 of the Senate amendment contains several amendments to the National Security Education Act of 1991 which, under clause 1. (g) of Rule X of the Rules of the House of Representatives, are within the jurisdiction of the Committee on Education and Labor. As you will recall, during the 1st Session of this Congress, Members of this Committee were appointed conferees for those provisions of the fiscal year 1992 intelligence authorization act (H.R. 2038) which established the National Security Education Act.

Because of this Committee's jurisdictional interests, typically I would ask that some of its Members be appointed as conferees on

H.R. 5095. In this instance, however, our staffs have discussed the provisions in question and their proposed resolution in conference. Based on these discussions, I do not believe it is necessary for me to request the appointment of conferees.

I would appreciate, however, a letter acknowledging this Committee's jurisdictional interest in section 304 and ask that you insert our exchange of letters in the RECORD during debate on the conference report.

With kind regards,

Sincerely,

WILLIAM D. FORD,
*Chairman.*

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PERMANENT SELECT COMMITTEE
ON INTELLIGENCE,
*Washington, DC, September 25, 1992.*

Hon. WILLIAM D. FORD,
*Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 5095, the Intelligence Authorization Act for Fiscal Year 1993, and the Senate amendment thereto.

I appreciate your committee's jurisdictional interest in the National Security Education Act of 1991. Last year, our committees shared jurisdiction over the creation of the Act. I am pleased that our staffs were able to agree on the final form of the relatively minor changes to the Act included in the Senate amendment to the fiscal year 1993 intelligence authorization bill. I appreciate your forbearance on the question of the appointment of conferees, which will greatly facilitate the completion of our conference.

Our exchange of letters will be included in the RECORD as a part of the debate on the conference report.

Sincerely,

DAVE MCCURDY,
*Chairman.*

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

□ 1050

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

Mr. Speaker, first I want to thank our distinguished chairman for his very kind words. I wish to emphasize to the body that he has quite accurately described the conference report before us today.

I rise in support of this conference report, even though it certainly is not perfect. There are many good provisions in it, however. Most importantly, perhaps, we have preserved the core intelligence programs for the intelligence community serving the national security of our Nation. We have also restored very significant FBI funding, and we have restored the CIA imagery analysis office.

I am concerned, Mr. Speaker, frankly, about the size of the funding cut. Certainly some reduction is advisable, but we have cut deeper than either the chairman or I have proposed. This is of great concern. The details for all of this, of course, are in the classified annex.

We face a changing world, but although it is a changing world, it continues to be a very dangerous world and intelligence is clearly described as a force multiplier, an early warning system for the very dangerous world in which we live.

There are other shortcomings in this conference report that I believe are worth noting. One area where I took special exception pertains to providing more funds entirely from the intelligence budget for the National Security Education Act, a program for language and area studies scholarships and fellowships. There is absolutely no guarantee that the beneficiaries of this program will make any contribution whatsoever to filling the needs of the intelligence community. In my view it simply does not make good fiscal sense to authorize another $30 million for this new trust fund when the intelligence budget is under its severest constraints in many, many years.

Also, Mr. Speaker, the intelligence authorization reorganization title in the Senate bill which caused the administration so much concern has, after much negotiation, been much watered down in the conference report. Many of the original provisions to rewrite the National Security Act of 1947 were viewed as needlessly threatening the President's necessary flexibility to structure the intelligence community for the most effective conduct of intelligence activities.

The conference report, however, adopts reorganization provisions which are largely harmless and minor nuisances. In short, this particular reorganization provision might be described as being from the Tammie Fay Baker school of legislative cosmetology: rather harmless.

The reorganization title does, however, include a modest but useful expansion of the authorities of the Director of Central Intelligence to transfer funds and personnel between the programs of the National Foreign Intelligence Program, and once again this year, the conference report includes a Senate provision, I underline, a Senate provision, not a House provision, expressing the sense of Congress that the overall intelligence budget totals should be publicly disclosed each year.

This is a recycled canard which will not provide the American people with any meaningful understanding of the relative costs versus benefits of funding intelligence activities. I am very thankful that the provision is not written into the law itself.

There are other shortcomings in the conference report worth noting. I believe I have covered the various most important shortcomings, in my judgment, Mr. Speaker.

Before I close, Mr. Speaker, I would like to say that as I conclude my 6 years on this committee, I certainly want to salute our distinguished chairman, who has made and is making an enormous contribution to the well-being and national security of our country, as well as every member of the committee on both sides of the aisle and the extraordinary staff which we have supporting us on both sides of the aisle.

While it is necessary that so much of what we do be highly classified, in one respect it is too bad that it is so highly classified, because some of the most important things we do simply can never be discussed. The Permanent Select Committee on Intelligence has made a significant difference over these past years, Mr. Speaker. I refer specifically to Desert Storm. It can be said categorically that American lives were saved in Desert Storm because of programs that not only were supported by the Permanent Select Committee on Intelligence, but were initiated and championed by the Permanent Select Committee on Intelligence.

Indeed, it can also be said categorically that some of the most extraordinary successes in our war against drugs, against illegal narcotics around the world, some of those most extraordinary successes took place as a result of programs initiated and supported by the Permanent Select Committee on Intelligence. People are freer around the world today because of the support of Members on both sides of the aisle of the Permanent Select Committee on Intelligence.

I wish we could talk in detail about the successes. We obviously cannot, because they are classified, but it can be stated categorically that these kinds of extraordinary accomplishments were made possible because of the dedication and the patriotism of the Democrats and the Republicans who worked together on a bipartisan basis on this very important committee.

Over my years in the Congress, Mr. Speaker, I have had the privilege of serving on the Committee on Public Works and Transportation, the Committee on the Budget, the Committee on Education and Labor, the Committee on the District of Columbia, and the Permanent Select Committee on Intelligence. I can say without hesitation that the Permanent Select Committee on Intelligence provides us with the opportunity to make an unparalleled contribution to the well-being of our country. America is more secure today because of the dedicated men and women who serve on this extraordinary committee.

From the bottom of my heart I am thankful for the privilege of having been able to give this service to the Congress and my country.

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

Mr. MCCURDY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY], the chairwoman of the Subcommittee on Legislation of the Permanent Select Committee on Intelligence.

Mrs. KENNELLY. Mr. Speaker, I rise in support of the conference report on

H.R. 5095, the Intelligence Authorization Act for fiscal year 1993. This legislation is an important step in reordering the Nation's intelligence community to reflect the new realities of the post-cold-war era. The reductions in funding and personnel levels contained in the conference report, and the legislative provisions pertaining to the community's organization, have been ably described by Chairman MCCURDY.

In addition, the conference report includes many legislative measures this year. All of the legislative provisions in the House-passed bill were included in the conference report without significant change, although the restatement of the Central Intelligence Agency Retirement Act includes more specific language spelling out how the Agency is to treat the right of a qualified former spouse of a participant in the Federal Employees' Retirement System [FERS] to a share of the thrift savings plan account. In short, the qualified former spouse is entitled to 50 percent of the amount that accrued in the account during the marriage, payable in a lump sum, upon receipt by the Director of Central Intelligence of proper documentation following divorce. We expect the Director to take steps to protect the rights of qualified former spouses to their share of these funds prior to the date payment is made.

The conferees also adopted all but one of the legislative provisions included in the Senate amendment. The conference report includes several technical amendments to the National Security Education Act [NSEA] of 1991, renamed by this measure in honor of Senator DAVID L. BOREN, who has championed the program. Among other measures, the conference report increases the trust fund authorized under the NSEA Program by $30 million and expands the membership of the National Security Education Board to include the chairperson of the National Endowment for the Humanities and two more education experts from outside the Federal Government. In addition, the conference report strikes the requirement that the program be administered by the Secretary of Defense through the Defense Intelligence College, which had proven to be impractical. In response to administration objections, we did not include the Senate's language that the Secretary establish an independent center for international studies to administer the program. Nevertheless, it should be emphasized that it is the Board with its broad membership including educational and nonintelligence Government viewpoints which establishes policies governing the criteria and qualifications for making awards. In addition, the law prohibits any person who receives assistance under the act from being used for intelligence purposes under any circumstances while pursuing his or her education.

As a supporter of the goals of the NSEA, I see it as a program of tremendous potential. Unfortunately, we are not near the point of realizing that potential. I am disappointed the administration has not managed to send to the Senate for confirmation its appointments to the National Security Education Board on a timely basis. This failure will prevent the Board from convening and setting forth the regulatory foundation that must be in place before scholarships, fellowships, and grants are awarded, for at least another 4 months, and may mean there will not be awards for the 1993–94 academic year. Furthermore, although I am aware that there are difficult administrative questions underlying this program, I remain concerned that there be an emphasis on keeping the administrative costs and complexities to a minimum so there is maximum benefit to students and scholars pursuing foreign languages and area studies. I am hopeful this can be done and I will continue to monitor implementation of the NSEA.

Finally, I would like to thank you, Mr. Speaker, for granting me the honor of serving on the Intelligence Committee over the past 6 years. I have been a member during difficult and challenging times. The issues facing the committee have been complex, but they promise to be no less so in the future as we struggle as a nation to define what we mean by national security.

□ 1100

And I would like to thank the gentleman from Pennsylvania [Mr. SHUSTER], the ranking member for his courtesy in always being willing to discuss issues with me as a Member. And obviously I would like to give great thanks to the chairman, the gentleman from Oklahoma [Mr. MCCURDY], who has given so much of his time through the years as a Member of the Congress of the United States to this committee, sitting in that room at the top of the Capitol and giving an effort and an ability to understand these very complex problems, and being willing to continue as its chairman and its leader.

I also would like to state today that I have been incredibly impressed by the intelligence, the dedication and professionalism of the staff of the Intelligence Committee. These are very difficult matters that we address for a person like myself who was never able to have the opportunity or the privilege to serve in the armed services, and to be able to serve on this committee and yet be backed up with a supportive professional staff so that I can make known the feelings of the persons outside in the community concerning our intelligence community, and I thank the staff for that. It has been an honor and a privilege to serve on the Intelligence Committee, and I would say to my fellow colleagues, as next year comes about, give some thought to giving some time to your country by serving on this committee.

Mr. SCHULZE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I appreciate the gentleman yielding me the time. I certainly want to rise in support of this conference agreement, Mr. Speaker, but I do want to wholeheartedly endorse the reservations that were expressed by the gentleman from Pennsylvania on some of the areas of funding and cutbacks. But I think this is probably reflective of a lot of hard work that did restore some of the things that had concerned us earlier.

The main reason that I wanted to take the opportunity to take just a moment was to bid farewell from this committee to a gentleman that I have had an opportunity to work with for 4 years, and it has been a true delight. This has been I think, maybe one of the most or somewhat most difficult, and maybe equally challenging times to go through with the world moving out of a cold war. Certainly the chairman and the ranking member have done a wonderful job in moving through a tremendous reorganizational effort of the intelligence community. This bill is much better because of the very personal, hands-on approach by the gentleman from Pennsylvania, and the people who strongly believe in a strong intelligence community owe a tremendous amount of gratitude to him. If it had not been for that perseverance and persistence, I think many of the things which we were able to win in this bill would not have come about, and the gentleman I think should have tremendous commendation for that, because he has done a phenomenal job. And it has been a pleasure, and I assure you that the committee and the community will sorely miss his leadership and his guidance. He has left a mark that will be well remembered into the years to come.

Mr. MCCURDY. Mr. Speaker, I just want to yield myself a couple of minutes here to conclude.

Mr. Speaker, I want to identify with the remarks of the gentleman from Texas [Mr. COMBEST], again in stating the belief of Members of both sides of the aisle that the gentleman from Pennsylvania [Mr. SCHULZE] will be missed, and we certainly have appreciated his service on the committee.

Mr. Speaker, I want to take a moment as well to express my desire to be working with the gentleman from Texas [Mr. COMBEST], who will be the ranking member in the next Congress, and I look forward to that association. I guess it is a true mark of the bipartisanship of this committee when we have two Members that face off on opposite sides of the Red River being able to work as well as we have been able to do.

Mr. Speaker, none of us could work and be effective without strong committee staff, and of all of the committees in the Congress we were the one that reduced our operating budget this year voluntarily. But I want to make it clear that we have I think, as professional and as high quality a staff as any committee in the Congress. They are truly dedicated, intelligent, and provide great service to us.

Also, Mr. Speaker, because of the jurisdiction, we work very closely with the committee members and staffs of the House Armed Services Committee, and also the House Appropriations Committee. And I also want to take a moment just to note their professionalism and our strong working relationship that we have, and we obviously appreciate that fact.

Mr. Speaker, earlier today we had you in the chair, and we had the gentleman from California [Mr. BEILENSON], handling the rule, and the gentleman from Ohio [Mr. MCEWEN] handling the rule, and all three of you have likewise served on the committee. I think it is important to note that again it is not something that people send press releases back to the district on, but it was nice to have those Members in the chair and managing the rule that had experience as you had, and I think it is important that we note that as well.

Mr. Speaker, it has been a tough 2 years, and a lot has happened with the gulf war, the collapse of communism, and the Warsaw Pact. But I can assure Members that there are many, many serious challenges out there and great instability in many places around the globe. The Bosnias of the world are going to be numerous in the future, and it takes quality intelligence in order to serve our Government well. We believe that this committee is important and plays an important role, and we believe that the intelligence community is doing a good job.

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

Mr. MCCURDY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. MCCURDY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

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

There was no objection.

## ANNUAL REPORT OF RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce and the Committee on Ways and Means:

*To the Congress of the United States:*

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for Fiscal Year 1991, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

The Railroad Retirement Board (RRB) serves over 873,000 railroad retirees and their families and almost 283,000 railroad employees who rely on the system for retirement, unemployment, disability, and sickness insurance benefits. Beneficiaries depend on the financial integrity of the pension funds for payment of their benefits.

This report includes the Annual Actuarial Report, which concludes that the railroad retirement system will not experience a cash flow problem in the near future. The Chief Actuary at RRB, however, warns that "the long term viability of the system * * * is still questionable." Based on the report's analysis, if employment trends continue as they have for over a quarter of a century, the trust funds will go broke sometime between 2010 and 2016.

I continue to strongly oppose the permanent diverting of Federal income taxes to the rail pension system. Since 1983 approximately $5.4 billion in taxpayer subsidies have been given to the rail pension fund, $1.72 billion of which were from the diversion of income taxes. The Railroad Retirement Board believes current resources are sufficient to pay benefits, except under the most pessimistic assumptions, thereby rendering Federal subsidies unnecessary. Railroad pensions should be financed solely by rail sector resources.

As I stated last year, I support all equitable reforms to the system, such as privatization and the extension of rules protecting private pensions (Employee Retirement Income Security Act) to the railroad's private pension system.

GEORGE BUSH.

The White House, *October 1, 1992.*

□ 1110

## THE VETO OVERRIDE ON THE GAG RULE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute.)

Mrs. SCHROEDER. Mr. Speaker, I am pleased to say the next vote, I think, is going to be one of the most important votes people will cast this year, because we are going to be dealing with the veto override on the gag rule.

I cannot tell people how strongly I feel about this, and, I think, most American women feel about this. This is an issue about whether or not the Federal Government is going to treat over half its population as adults, as adults. This is a fundamental.

In other words, if the gag rule is not overturned and we do not override this veto, what we are going to be saying to American women is we are going to be mandating malpractice for them, that even if a medical health professional thinks that that would be in their best interest, they will be unable to act upon that or tell them that because of the Federal Government. That is not the America I signed up for, Mr. Speaker.

I hope today this House stands with the other body and says that is not the America we know. This is one Nation, indivisible, and we are going to treat men and women alike, and we are going to make sure they have all the options laid in front of them.

I salute the wonderful committee that is bringing this to the floor and the chairman, the gentleman from California [Mr. WAXMAN], who has done such a fabulous job. I hope the House shall override today.

## THE FAMILY-PLANNING CLINIC REGULATIONS

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

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the gentleman from California [Mr. DANNEMEYER] is recognized for 1 minute.

There was no objection.

Mr. DANNEMEYER. Mr. Speaker, my colleague, the gentlewoman from Colorado [Mrs. SCHROEDER], could not be more mistaken in what she has just said to the House relative to what the status of the regulation is and what the House will be considering.

The regulation specifically authorizes, and I will quote from it:

> Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician.

The guidance goes on to say:

> Section 59(5)(b)(1) of the regulation requires the physician to refer a pregnant woman with a health problem to medical care appropriate to her particular health problem, even if that referral ultimately results in an abortion.

That is the regulation. It authorizes a physician, working in a family-planning clinic, to do just what that regulation says.

What the regulation goes on to say is the vast majority of the counselors working in these family-planning clin-

ics who have no training whatsoever are precluded from talking about abortion as a part of the overall function of family planning. That is what this dispute is all about.

## FAMILY PLANNING AMENDMENTS ACT OF 1992—VETO 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:

*To the Senate of the United States:*

I am returning herewith without my approval S. 323, the "Family Planning Amendments Act of 1992." This legislation would extend and amend the federal family planning program under title X of the Public Health Service Act.

If the scope of S. 323 were limited to family planning, I would approve it. My Administration has an excellent record in support of family planning. About this there can be no question. Our approach to reauthorizing title X was embodied in a bill transmitted to the Congress on February 25, 1991. We need a family planning program to deliver preventive, pre-pregnancy services.

Unfortunately, S. 323 is unacceptable because it would override current regulations that are designed to maintain the title X program's integrity as a pre-pregnancy family planning program. The bill would require projects supported by title X family planning funds to counsel pregnant women on, and refer them for, abortions. Such a requirement is totally alien to the purpose of the title X program. Title X is a quality health care program that provides pre-pregnancy family planning information and services and refers pregnant women to health care providers who can ensure continuity of care.

Under current regulations, upheld by the United States Supreme Court, pregnant women who seek services from clinics funded by title X would be referred to qualified providers for prenatal care and other social services, including counseling. Moreover, nothing in these regulations prevents a woman from receiving complete medical information about her condition from a physician. The Supreme Court specifically found that the regulations regarding the title X program in no way violated free speech rights.

In a memorandum to Department of Health and Human Services Secretary Louis Sullivan on November 5, 1991, I reiterated my commitment to preserving the confidentiality of the doctor/patient relationship. In that memorandum, I also repeated my commitment to ensuring that the operation of the title X family planning program is compatible with free speech and the highest standards of medical care. My memorandum makes clear that there is no "gag rule" to interfere with the doctor/patient relationship. There can be no doubt that my Administration is committed to the protection of free speech.

I have repeatedly informed the Congress that I would disapprove any legislation that would transform this program into a vehicle for the promotion of abortion. Unfortunately, the Congress has seen fit to entangle this family planning program in the politics of abortion.

I believe that the title X family planning program should be reauthorized. I now urge the Congress to adopt a bill that promotes true family planning rather than requiring Federal tax dollars to be used in a manner that promotes abortion as a method of birth control.

GEORGE BUSH.

The White House, *September 25, 1992.*

The SPEAKER pro tempore. 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.

The question is, Will the House, on reconsideration, pass the Senate bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from California [Mr. WAXMAN] for 1 hour.

Mr. WAXMAN. Mr. Speaker, as is customary, I yield ½ hour to the gentleman from California [Mr. DANNEMEYER].

Mr. Speaker, for debate purposes only, I yield myself such time as I may consume.

Mr. Speaker, this veto is callous and cynical. The veto is callous to the needs of poor women around the Nation. And it is cynical in its pandering to the extreme right, while ignoring the mainstream of America.

The vote in the other body yesterday, a vote of 73 to 26, demonstrates that this is not a partisan debate. This is not about Republicans and Democrats. This is not about pro-choice or pro-life.

This is about free speech. This is about basic medical care. This is about the doctor/patient relationship.

We all know that poor people get very little medical care in this country. Most of that is the result of a lack of money to pay.

But in the case of this gag rule, we are talking about depriving poor people of medical advice, not because of money, but because of politics. There are good doctors, nurses, and counselors in the Federal family planning program. We are paying them to give good advice. But this gag rule will take the advice and counsel of these professionals away from poor women, women who have no place else to go.

And this gag rule is extreme: Family planning clinics have never provided abortion services. This gag rule stops doctors from warning diabetic women about the dangers of stroke and pregnancy. It stops nurses from answering point-blank questions from rape victims. It stops counselors from giving referrals even to women who ask with their husbands and families.

The gag rule is wrong. It is bad medicine. It is bad law. It is bad policy. And today I hope we can show that it is bad politics.

For the free speech of doctors and nurses, for the basic health of poor women, and for doctor/patient relationship, I ask my colleagues to override this veto.

Let me describe the basic provisions of the legislation that we are discussing. This conference report is to reauthorize the Federal family planning program, to overturn the gag rule on health professionals in family planning clinics, and to require that these clinics comply with State law that is in force regarding parental notification or consent for minors seeking privately funded abortion services.

### REAUTHORIZATION IS IMPORTANT

The Federal family planning program is a key element in the Nation's effort to improve maternal and child health, lower infant mortality, and lower the rates of unwanted pregnancy and abortion in the United States. Over the years, expert review and medical research have always arrived at the same commonsense conclusion: The best solution to unwanted pregnancy is to prevent the pregnancy.

Unfortunately, this program has been held hostage in the abortion debate for a very long time. The program has been proposed for repeals, block grants, freezes, and restrictions. It has not been reauthorized since 1985 and has not had significant funding increases since its last authorization. In fact, in constant dollars adjusted for inflation, the funding of the program and its ability to provide services to poor women have declined by more than half.

The tragic result is that routine contraception services have been limited over the last decade, and that has meant unwanted pregnancy and, in turn, unnecessarily high rates of both low-birth weight babies and abortions.

With this legislation, I hope that we can expand these services and move beyond the abortion debate to the health debate. The continued use of the family planning program as a pawn in the abortion debate is self-defeating, leaving poor women with fewer and fewer ways to prevent pregnancy.

### THE GAG RULE IS WRONG

We should also move to eliminate restrictions on the ability of poor women to get the best medical advice of the health professionals who provide them services. The administration has proposed regulations to limit the ability of doctors and nurses to counsel and refer patients or even to answer point-

blank questions with truthful responses.

This regulation—which is known as the gag rule—is bad medicine, bad law, and bad precedent. Title X patients—most of them poor—will not get medical advice about their pregnancy but political advice. They will not get informed consent; they will be told what to do.

This is not right. The Supreme Court may say that it is constitutional, but it is not right.

This legislation would reverse the gag rule and replace it with a codification of the guidelines that were issued by the Reagan administration on how a family planning clinic should deal with a pregnant woman. This is a simple approach: If a patient requests information on pregnancy options, she should be given that information. It should be non-directive, it should be complete, and it should be true.

This has been the practice of the program practically from the time that then-Congressman Bush first spoke in favor of it and voted for it. It was formalized by the Reagan administration. It is supported by all health provider groups, including the American Medical Association and the American Nurses Association. It should continue to be the policy of the program.

STATE LAW SHOULD GOVERN ON PARENTAL NOTIFICATION FOR MINORS SEEKING PRIVATELY FUNDED ABORTION SERVICES

Finally, this legislation contains a House amendment to require that clinics receiving funds under this program comply with any State law in force that provides for parental notification or consent for minors seeking abortions.

The first thing that I want to make explicit is that title X funds cannot be used to perform abortions. Nothing in this report changes that policy. This provision affects only title X clinics that provide abortions with totally separate, non-Federal funds.

The amendment requires that these clinics comply with State law that is in force on parental notification and consent. Like the House, the conferees took this approach because of the widely varying provisions of State parental involvement law. Some States require it, some States do not. Some States make exceptions for medical emergencies. Some States allow notification to grandparents. Some States allow counseling by clergy instead.

Rather than superseding this variety of laws, the conferees chose to recognize these laws in a States' rights manner. It would be inappropriate to override State laws in this extremely complex area through a small grants program.

SUPPORT THE CONFERENCE REPORT

In closing, I would simply reemphasize that the Federal family planning program is our best hope to achieve many maternal and child health goals. To reduce unwanted pregnancy we should make family planning widely available. To lower abortion rates we should give women the ability to prevent pregnancy. Family planning is not the problem. It is the solution.

□ 1120

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

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I stand in awe at the persistence of those who think abortion ought to be a legitimate option in a family planning clinic. They seek to advance the cause of abortion by using tax-supported family planning clinics as steering centers for abortion clinics.

Now, I have heard the term "right-wing extremists," "the extreme right-wing." I suppose that includes Governor Casey of Pennsylvania, I suppose that includes a lot of people, millions of people who oppose abortion because it kills a defenseless, vulnerable, innocent human life once it has begun.

This fetus is not a goldfish, it is not a pollywog; it is a tiny, microscopic member of the human family. And when you kill that little member of the human family, using the euphemism reproductive rights or choice, it is abortion you are talking about. When you kill that tiny baby, you kill a member of the human family, you kill his or her progeny generation after generation.

But, no, you want to do that and you want the taxpayers to pay for it.

Gag rule? What about the blindfold rule? What about your refusal to tolerate informed consent? You did not bring up the Freedom of Choice Act here because you are afraid that the Members will put an informed-consent amendment which would tell a woman when she goes in that she is talked to by a doctor. Abortions are surgery, surgery; it is not piercing an earlobe. And it can involve perforated uteruses, infections, it can involve scar tissue. I do not want a counselor, who is usually a volunteer, I do not want a receptionist advising a woman who wants information about abortion. Let the doctor do that. It is medical advice, and the doctor, only, should give it. No, you are for a blindfold rule.

The Supreme Court, in Rust versus Sullivan, has said it is perfectly constitutional for Congress to pay for family planning, which is to keep you from getting pregnant or to help you get pregnant but has nothing to do with abortion. All you have to do is look in the yellow pages and you can find abortion clinics all over. But abortion is killing. It offends a lot of people who do not want their tax dollars spent for it. And we are not members of the extreme rightwing.

Can we not have a debate on this issue without demeaning and insulting each other? I do not call you the extreme leftwing.

Mr. WAXMAN. I yield myself such time as I may consume.

Mr. Speaker, family planning programs do not provide abortion services, and no one is seeking them to provide these services. But this gag rule will not even allow a doctor in a family planning clinic to explain to a woman that an abortion is an option for her to consider. And there are times when that is an appropriate consideration.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. I thank the gentleman for yielding.

Let me say one more time what the gentleman just said: There is not 1 Federal cent going to abortion, not 1 Federal cent. This is about a family planning clinic where a woman goes in and may be pregnant, and that can be a life-threatening condition for many women.

Pregnancy can be very dangerous for many women. And what this says is, if that clinic gets Federal money, a nurse or a physician assistant or any health professional cannot tell her her rights. Yes, a physician, supposedly, can. But let me tell you, physicians' assistants and nurses and everyone else are gagged.

The President wanted to gag physicians, too; he only backed off of that because he decided they were too powerful an interest group.

Mr. WAXMAN. If the gentlewoman would yield, I just want to, I must point out, that physicians are in fact gagged. This administration tried to make it seem that physicians could counsel women and refer them to an appropriate place where they can get abortion services because these clinics do not provide those services. But if they want to know where to go to get them, they ought to be able to tell them. A doctor cannot do it. Under this regulation, a doctor could only say, "Here is a list of the places where you can get prenatal care." They may provide abortion services. A woman might say, "Doctor, I want an abortion. Which of these may I go to for an abortion?" The doctor cannot even talk to the woman and tell her where she can get that service. A physician cannot even give her that information. It is outrageous.

Mrs. SCHROEDER. A physician has half the gag in his mouth, but a physician's assistant, nurse, or anyone else has a total gag in their mouth.

Mr. WAXMAN. That is right.

Mr. DANNEMEYER. Mr. Speaker, I yield myself 2 minutes.

I want to say to my colleague, the gentleman from California [Mr. WAXMAN], maybe he did not hear the previous comment, but the regulation that we are talking about, and I will quote it again:

Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician.

And section 59.5(b)(1) of the regulation requires the physician to refer a pregnant woman with a health problem to medical care appropriate to her particular health problem even if that referral ultimately results in an abortion. There is no gag rule on a physician by that language. A physician is at liberty to use the full gamut of his or her professional services with respect to that refusal.

Now let me relate back, if I may, for just a moment as to how family planning started in 1970.

None of the funds appropriated under this subchapter shall be used in programs where abortion is a method of family planning.

And in the debate of the Committee on Energy and Commerce in 1970 which considered this, section 1008, and I am quoting from the committee report:

The committee members clearly intend that abortion is not to be encouraged or promoted in any way through this legislation.

That is what this law said from the very beginning.

You keep referring back to something in the Bush or the Reagan administration, and it is true that in the Reagan administration a regulation came into existence because family planning clinics around the country were violating the express prohibition in the law that was debated and clearly understood in 1970. That is why this regulation came along. The regulation, as I say, permits the physician to give all the advice that is necessary and the restriction on advice relates to those voluntary counselors, some 500, who have no training in this issue at all.

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

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York [Mr. SCHEUER], one of the original authors of the family planning program from the Congress of 1970.

Mr. SCHEUER. I thank the chairman.

Mr. Speaker, I want to make it clear that the doctors of America consider that the gag rule applies to them. Let me give you a statement that they made; that is, the American Medical Association:

The AMA strongly urges your firm commitment to S. 323. The gag rule—

Now this is doctors speaking—

The gag rule prohibits free and full exchange of complete medical information between patients and health professionals. The regulations compel physicians to violate their legal and ethical duties to provide complete and objective followup referrals.

Now, that is doctors speaking.

Mr. Speaker, the Family Planning Services and Population Research Act, which Senator Joe Tydings and I proposed in 1970, is a hallmark piece of legislation benefiting women and young couples. Its purpose then and its purpose now was to make family planning available to the 5 million or more American women who were lacking these services. No one can question the enormous value and benefits of the program, and I am proud to have been one of its two principal original sponsors.

□ 1130

Now, here 22 years later when the entire civilized world, the entire developed world, affords free and unfettered family planning advice to its women, the United States alone is holding back and is limiting what doctors, nurses, counselors and other health professionals can advise their women.

We are faced now with monumental problems among women, of runaway teenage out-of-wedlock pregnancy rates, runaway high instances of sexually transmitted diseases, and of course, something that was not known 20 years ago, the pitiful, tragic, heartrending AIDS epidemic. I cannot imagine what the statistics would be if there were no family planning clinics to which low-income women could go for checkups and for family planning counseling and services.

Twenty-two years later, the Federal Family Program has been gagged by the discriminatory practices that restrict a women's access to her constitutional right to an abortion and denies a physician's and counselor's right to free speech.

The doctors consider that they have been gagged. Yesterday the threat of a gag rule became a reality. Now title I doctors are forced to gag themselves and refrain from providing women with information about pregnancy options, women who now must be told that in effect their options only truly begin once the child has been carried to full term.

Many family planning clinics around the world refuse to be gagged. As a result they are being forced either to cut back services or to raise prices for those services. Either of these options would be a tragedy.

Those who are forced to rely on government for health care, including family planning services, are being denied comprehensive pregnancy counseling.

The President said a few weeks ago that he would respect his granddaughter's decision to terminate an unwanted pregnancy. If he can accept her decision, how in the world in good conscience can he deny this basic, fundamental right to those women, who like his granddaughter, wish to exercise their option.

I strongly urge my colleagues to override the President's veto of this vital piece of legislation. It is the power to restore fairness to family planning services and to give information to women absolutely necessary, uniquely necessary, to make complete, informed, and responsible family planning decisions.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Speaker, the long, tortured history of this debate really is frustrating to those of us who have tried since the mid-1980's to build a wall of separation between family planning and abortion, so that we may maintain a consensus in this country in support of public funding for family planning. That consensus will be shattered if and when we ever destroy the wall that separates it from abortion.

The history of the opposition to these regulations, which are eminently reasonable and based on sound evidence and analysis of practices that took place in these clinics prior to the implementation of the regulations has been truly astounding.

First, the opponents said they are unconstitutional. The courts made it clear that is not the case.

Then they said it would stop doctors from giving basic and necessary medical advice to women. The President clarified that through the regulations to make sure that everybody understood there was no chance of that.

Then, of course, the opponents said, "We're going to still seek to overturn it legislatively." They have failed so far down that avenue.

Now the opponents are again back in court saying the regulators need to be overturned. Why? Precisely because the President clarified the role of the doctor, and the argument is, well, we need to relitigate the entire thing, based on these new regulations.

And to make the matter more appalling, yesterday as the regulations went into effect, we find clinics across the country saying simply:

We don't care what has happened legislatively. We don't care what has happened in court. We don't care what the regulations say. We are simply going to disobey the law.

The effort to make sure that the Federal Government subsidizes abortion counseling and referral has truly been remarkable, Mr. Speaker. Indeed, its success would be tragic. There does exist in this country today a consensus that we should support family planning. It does not exist if you say family planning means advising people on getting abortions, and that is exactly what this issue is about in its bottom line.

The gentleman from New York made the point. He said we are the only Nation in the world that does not provide advice to people about all their options, not information, advice. That is precisely what we are seeking to prevent. We are seeking to prevent personnel who are not doctors, counselors, nurse, and others, from advising people to have abortions.

As long as we can keep that out of title X, the American people support

family planning. Once we tear that wall down and put the Federal Government in the business not just of allowing, not just of funding, but of promoting, advising and encouraging abortions, you are going to see the consensus for family planning that exists in this country collapse.

I hope that does not happen. I hope the House will sustain the title X regulations, which are well-conceived, sound, and if allowed to work will not be proven to have the dire effect that the opponents have indicated.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, the reason the fact that the previous speaker talked about are true is because, yes, family planning is very much a part of the fabric of this country. Now that we have got into this situation, the reason first and foremost why we are having the argument is because it is about first amendment rights.

By vetoing this legislation, the President has told low-income women who use family planning situations that they do not have the same rights as those across this country who are better off.

We have told health providers by this veto that they cannot follow their true medical and clinical judgment in counseling.

This bill is important. It is about family planning. It seems to me it is so strange that it is vetoed by a man who stood on this very floor as a Member of this body and was one of the strongest advocates for family planning, so I find this veto very disingenuous, very worrisome.

The second thing that this whole situation today is about the veto. Vetoes are not leadership. It is time for us to say that to the President, as the Senate said it yesterday very loud and very clear in its override.

I urge my colleagues to do the same. Let us relegate the gag rule to the asterisk in history where it belongs and put things back on track.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I would like to make three points this morning.

First of all, at Family Planning Clinics nobody urges anybody to have abortions. If you have ever dealt with a woman, who is pregnant, you would never put yourself into the position of making a decision for that person about what to do about the pregnancy. It is far too big a decision, and one with lifelong consequences for any of us ever to want to influence.

Furthermore there is literally no evidence that has been presented by those who oppose these regulations that our family planning clinics are influencing or promoting the option of abortion. All these clinics are doing is giving women full information as to their options. They can have prenatal and well-child care to carry that child to term and care for it the rest of their lives, they can put it up for adoption, or they can terminate the pregnancy. All these clinics do is present the three options, usually by providing lists of providers who can advise in each case.

Women in a free society have a right to know what their legal choices are and how to pursue the course of action of their choice.

Second, there is a very big problem with these regulations, as written because they say that doctors only can provide this information. The reality is that the people who use these clinics have no insurance, and therefore no access to a doctor. These clinics for the most part do not have doctors on site. So there is a certain hyprocrisy in saying, "We don't mind if you have the information. You just have to get it from a doctor, a source that you don't have access to."

In a free society, there is a difference between knowledge and action. All we are talking about in the legislation is assuring women having knowledge, the information they need to empower them to make the decision that is best for them in their lives, a decision that is in harmony with their most fundamental beliefs. That is what we are talking about here, freedom to have the information, the knowledge, the power that you need over your own life.

Those who oppose this bill oppose it because they disagree with the actions that some women might take. I understand that disagreement. It is a very big issue in our society. But this legislation does not fund abortion and does not encourage abortion. It only assures women full knowledge of their pregnancy and choices.

Beyond that, in a democracy, women must be trusted to make morally responsible decisions.

The gag rule regulations are a disgrace to free America. I urge your support of overriding the President's veto.

But opposing the action is an entirely different matter than opposing knowledge and the free flow of information in a free society. That is a constitutional issue.

Mr. Speaker, I urge my colleagues to support override.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, for more than a year now we have been fighting the administration's attempt to infringe on our fundamental rights. The gag rule violates the right to free speech, the relationship between doctor and patient, and the fundamental respect this country owes to women.

The gap rule creates a two-tier medical system in which poor women are denied access to the same information available to those with private health insurance. This is a betrayal of democratic principles and a betrayal of family values.

The gap rule shows that this administration is more concerned about pandering to political pressures than providing equal treatment to women or protecting freedom of speech.

Earlier this week, we failed to override the President's veto of family and medical leave. If we do not act today to override the President's veto, we are allowing censorship to become law.

My hope for the future is that we have a President who will truly be profamily and help erase the Reagan-Bush legacy of political expediency and family neglect. Until that time, we have no other option. We must vote to override the President's veto.

Mr. DANNEMEYER. Mr. President, I yield 2½ minutes to our distinguished colleague, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, it is amazing listening to this debate—the kinds of misleading statements we are hearing, the shrinking from what we know to be the truth. When we ask the proponents of abortion if they are for abortion on demand with no restrictions, they run and hide from that. When we demonstrate that they are for abortion, abortion without restrictions so that it may be used as a birth control device, they also run from that.

They just said here on the floor that family planning clinics do not promote or perform abortions. We know that is not the case. The leading provider of abortions in the United States is the Planned Parenthood organization.

They say no one pushes abortion. Well, let me tell my colleagues this. I am going to present a very slick piece put out by Planned Parenthood of Houston and southeast Texas and just go through a couple of their statements. They are quite misleading; for instance, when they push for title X moneys to be used to counsel for abortions, they say:

"Unfortunately title X has been attacked by groups and individuals opposed to Federal support for contraception as well as abortion."

No one here is saying that we are against contraception, so they even mislead in their own brochures. They work very actively to promote that title X moneys be used for abortion. In their own piece it says:

"Moreover, the proposal would violate a woman's right to choose abortion."

They want to promote abortion and that abortions be performed in their clinics. They blatantly promote abortion in their piece. It says:

"The decision to have an abortion is an intensely personal decision which is

best made by the woman involved, without government restrictions. No woman should be denied abortion services solely because of her age or her economic circumstances."

Then they say:

"Planned Parenthood is committed to a pro-choice position. We believe that a woman must have access to all reproductive health options."

What they are talking about is that they want to use abortion as a birth control device because they listed contraception, prenatal care, abortion and adoption as options. They are blatantly promoting abortion.

And it was said earlier that no one pushes abortion in these clinics. Well, I have got a quote here from a GAO report which describes how a woman was pushed and coerced into having an abortion by a family planning clinic. She says too many people are literally encouraged to use abortion as a birth control device because of its availability. She also says it was the only solution offered.

Vote to sustain the President's veto.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I rise today in strong support of S. 323, the Family Planning Amendments Act which overturns the gag rule, and urge my colleagues to override the President's veto of this bill.

Title X is a primary health care program intended to make family planning services available to low-income women.

This bill is not about abortion—title X funds may not be used to perform abortions. Rather this bill is about the Federal Government telling health care professionals what they can and cannot tell patients about their health care options. Health care professionals must be free to provide information to low-income women that can be obtained by women who can afford the services of a private physician.

This is also a free speech issue. To gag health care professionals is to compromise the health and rights of women.

Let us not forget that this bill also provides resources for family planning programs which serve women seeking to avoid unplanned pregnancies.

Let us check our political agendas at the door and vote for a bill that ensures women both access to health care and the ability to make informed health care decisions.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. For a woman with an unintended pregnancy, Mr. Speaker, any decision to terminate the pregnancy, to carry the child to term, to raise the child herself, to give up the child for adoption, has enormous implications in that woman's life. With this veto George Bush tells poor women to use guesswork to make those decisions. He is telling poor women they cannot expect the informed information from nurses and social workers in title X clinics as women do who can pay for those services in fancy clinics.

My colleagues, a vote to override is a vote to stop making poor woman the victims of medical censorship. It is as simple as that, and for those reasons we ought to override George Hebert Walker Bush's veto today.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I rise in strong support of overriding the veto of the family planning reauthorization.

Members of the House, this is it. The override vote is the last opportunity we have to repeal this deplorable regulation before it becomes permanent.

This is not a pro-life, pro-choice issue. Rather it is one of gender, income, and free speech.

In a few short minutes, each and every one of you will determine the fate of 4 million low-income women who depend on the Federal Government for their health care.

As a woman, I find it offensive that this House is struggling so hard to pass legislation that simply enables women to make informed decisions about their reproductive lives.

But even beyond that, every one of us should be up in arms over this flagrant abuse of regulatory power. By prohibiting certain information, the gag rule eliminates low-income women's options and controls their choices. Congress cannot condone policies that censor the medical information received by people who are dependent on the government. We should not accept or tolerate in this body the Federal Government dictating our medical treatment of our women in this country under the pretense of moral correctness.

Furthermore, perhaps someone could tell me why a woman's right to pregnancy counseling should be determined by a group of individuals in Congress, none of whom will ever see the inside of a family planning clinic.

Members of the House, it is time to put to rest the gag rule debate. Let's get the facts straight. Title X clinics do provide family planning information and gynecological exams to approximately 4 million low-income women. Title X clinics do not use Federal funds for abortion services.

Why is it that this Congress continually struggles to pass bills designed to aid the health of women and families?

Nationwide, women will watch to see today who votes for them and who votes against them. And trust me, in 4 weeks they will not forget. We refuse to allow the Federal Government to blatantly violate basic principles of freedom and equity in our Nation.

□ 1150

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, as of yesterday thousands of women in the Commonwealth of Virginia will no longer be able to get complete, accurate, confidential medical information because for that medical information they are wholly dependent upon the 118 family planning clinics operated throughout the State, but because of economic necessity those family planning clinics had to decide that it was necessary to compromise the rights of their patients and the integrity of their medical care professionals.

The White House tells us, "It doesn't matter. We haven't gagged doctors." How duplicitous, how disingenuous to say that, when they know that 98 percent of the services in these family planning clinics cannot be provided by doctors because we cannot afford to have doctors providing these services. Ninety-eight percent of the services are provided by medical care professionals with extensive experience, fully capable of providing that information but now gagged from doing so.

Mr. Speaker, there is a human face to this issue. It is of a very young woman living in poverty with at least one child who is wholly dependent upon these services and who cannot go to any private physician's office. It is not fair what we are doing to her.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, beginning yesterday, in order to receive Federal funding, family planning clinics must comply with regulations designed to keep Federal dollars out of the abortion business. Today, the House is trying to gut those same regulations, for the fifth time in a little over 1 year.

Four times we have stood on the floor of the House and voted on this issue. Each time, abortion supporters have tried to cast this debate as one of free speech, or as one of doctor-patient relationships, or as one of family planning. This vote is not about free speech: Under this regulation, pregnant women may be referred to facilities that perform abortions, such as hospitals or community health centers, as long as their primary business is not abortion. This vote is not about the doctor-patient relationship: Under the regulations, a doctor is required to provide a woman with complete medical information about her condition. And this vote is not about family planning. The Federal Government will spend $461 million this year in direct family planning services and another $164 in family planning research, even without this particular pro-abortion bill. This vote is about abortion, and abortion is not family planning. Abortion is family cancellation.

The regulations only prohibit clinic staff from referring a pregnant woman to an entity whose primary business is abortion. The bill that the President vetoed isn't about the best interest of women's health; this bill is about spending taxpayer's dollars to drum up business for the multimillion dollar abortion business in this country. Vote to sustain the President's veto, and keep taxpayer dollars out of the abortion business.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair wishes to advise the gallery, you are welcome to be here. We are happy to have you as our guests, but it is against the rules of the House to demonstrate regarding something that is occurring on the floor.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

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

Yes, Mr. Speaker, we have had to come to this well several times this year to try to prevent this administration from taking the action that it did this week.

"Keep government off our backs"—we have heard that pitched by this administration over and over again. But when it comes to women, and particularly poor women, this administration has decided that it is just fine and dandy to demand Government intrusion and control. Starting this week, yesterday in fact, the gag rule began to force the Government into every consulting room of every title X clinic and to limit the medical advice health care professionals can give their pregnant patients.

Not only does this regulation restrict free speech, regardless of what the opponents claim, it widens the growing gap between rich and poor. It establishes a medical system where one's chance of learning one's full range of options depends on the size of one's paycheck. For shame. We must keep up the fight.

Mr. WAXMAN. Mr. Speaker, will the gentlewoman yield to me?

Mrs. UNSOELD. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I would just like to point something out.

Once the Government tells family planning clinics they cannot talk about abortion because they do not want women to know about abortion for fear they may choose that legal option, how far off are we from Government telling doctors not to tell elderly people under Medicare about heart bypass surgeries because it will cost a lot of money and Government may not want to spend all that money on medical care for elderly people?

Government can start telling doctors what to do and keep people ignorant of their options. Keeping people ignorant of their options and keeping them from obtaining information is a matter of life and death in many circumstances. We must let people have an opportunity to know all the facts. The medical people must be able to discuss openly and freely with patients all that they need to know.

Mrs. UNSOELD. Mr. Speaker, I thank the gentleman for making that point.

Mr. DANNEMEYER. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, we must override the veto of S. 323, the family planning reauthorization. This bill is critical not only because it reauthorizes title X family planning programs, but because it overturns the outrageous restrictions of the gag rule.

The gag rule went into effect yesterday, beginning a policy that will lead to defensive medicine, will create a class system for women's health, and is a clear violation of the first amendment. Women who can afford private physician care will have complete information and access to these health services, while low-income women will be denied the same services, even when they are the victims of rape, incest, or life-threatening illnesses.

The gag rule is discriminatory and patronizing to women and it must be repealed. This is a critical vote for women, and I urge my colleagues to override the veto.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

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

Mr. Speaker, I urge this House to override the veto on this family planning bill.

President Bush says, "Read my lips." Today his lips say, "No information to poor women about abortion." I believe this is the first time in our Nation's history that poor people are being treated differently in the health area.

I cannot believe that there are really any women in America who do not know that abortion is legal and available. That is not the issue. What we are saying in imposing this gag rule is that poor women coming into a family planning clinic cannot even ask a question of a person there about abortion. There are probably poor women who want to know, how is it done? What are the different methods? Is it safe? Is it too late for me?

There is a whole host of other questions that are real and meaningful to this woman that need to be answered but cannot be answered because of this gag rule.

□ 1200

Not to be able to provide this information to poor women who ask these simplest questions I believe is Government-sanctioned malpractice. Not to be able to answer a woman's question about her options is Government-sanctioned censorship, which could severely endanger her life.

This needs to be focused. Not one single Federal penny is being spent on abortion, so that is not even the issue. To prevent needed information from being imparted to a woman about her health, not to ordinary women, but only to poor women, is an unconscionable policy.

Mr. Speaker, if we fail to override this veto, what we are saying in our country is there are two classes of people in our society, one of whom is poor people who cannot take advantage of all the information that America has to safeguard her health, to provide her options in terms of what she should do with her own body.

Mr. DANNEMEYER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I hate to see the day that the gentleman from California [Mr. DANNEMEYER] leaves this House, because the gentleman has been a very important person in this body to answer some of the statements by the other side.

Mr. Speaker, I am so tired of this. Gag rule, gag rule, gag rule, gag rule. What is a gag rule? I mean, do you go to the VA hospital to see the staff, or do you go to see your doctor? Do you go to a lawyer's office to see the staff, or do you wait around for hours waiting to see the lawyer? Who are you there to see?

Does not the doctor have the right to advise you on your rights and what can happen with you? Where does the gag rule come in on this? What is the issue before us today?

Mr. Speaker, it is a liberal issue that you insist on hammering a President that is going to stand firm and who is right in standing firm, but we have got to continue to say gag rule, gag rule, gag rule.

There is no gag rule here. There is nothing to stop the doctor from standing up for what is right and telling you what your rights are as an American and as a woman are.

So let us forget about the gag rule and talk about the issues that are before us. To me that is for the right of unborn children and for the right of women to know what is right for them, for the terrible doctor who performs the abortion who can live with himself, for the person that recommends a person to go forward for it, that they have to live with themselves.

The first amendment, we want to say it is a first amendment right here. Well, it is not. The first amendment question was answered and addressed

finally by the Supreme Court in the Rust decision. In the Rust decision that was handed down by the Court not friendly to the pro-life cause, they are not friendly to the unborn, and they are not friendly to the mother, but on the contrary, two of the members of the majority in Rust, Associate Justice Kennedy and Associate Justice Souter, sided this year with the majority in the case to sustain and reinforce the central holdings of Roe versus Wade and the so-called right to an abortion.

So despite the shouting by those groups, which have spent millions of dollars and 4 years trying to overturn the regulation, this is not a free speech issue. It is not a gag rule issue. The fact is they have that right, and what are we here arguing about? To say that they do not recommend it, that the staff does not recommend abortions? That is garbage. We know that is garbage, so why do we not get to the issue itself, and that is what right here.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise in strong support of this important legislation. We must override the President's veto, and we must preserve the integrity of our Nation's family planning programs.

Mr. Speaker, the previous gentleman said that we are sick and tired. He is right. The women of American are sick and tired.

This is not about abortion. It's about freedom of speech. It's about trusting American women with the information to make decisions for themselves. And it's about providing decent health care to American women.

Clinics around the Nation are as a matter of principle refusing Federal funds rather than accept Government censorship. But these clinics will be forced to reduce their services, and the women of American will suffer.

Think about it: In the midst of a national health care crisis, this veto will leave more Americans without vital health care services. That makes absolutely no sense whatsoever. At a time when we are trying to keep medical costs down, to not allow health care practitioners to give these vital services just does not make sense. As we know, the health care practitioners are providing essential services in all the clinics throughout this country. To not allow them to do it makes no sense and will raise health care costs in this country.

I urge my colleagues to vote to keep politics out of the examining room. The fundamental rights of women and health care providers are on the line today. We must do the responsible thing by overriding this veto and removing the gag from family planning clinics.

Mr. DANNEMEYER. Mr. Speaker, may I inquire what is the division of time remaining?

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from California [Mr. WAXMAN] has 12 minutes remaining, and the gentleman from California [Mr. DANNEMEYER] has 11 minutes remaining.

Mr. DANNEMEYER. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, one of the pages is going to put up a chart here. It will not be legible to anybody who follows the proceedings of this House on C–SPAN or to our guests in the gallery or to the Members on the floor, so I have a perfect facsimile of the letter from George Bush that gives the lie to what some of my distinguished colleagues have said about gagging doctors.

The chairman knows, I think he is a fair legislator and a very hard-working chairman, that all this talk about doctors being gagged is ridiculous. HENRY, it is all right here in writing. I will just read two of the four major provisions in this letter.

"Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician." That is simple English, a declarative sentence.

"Title X projects are to provide necessary referrals to appropriate health care facilities when medically indicated." Simple.

Third: "If a woman is found to be pregnant and to have a medical problem, she should be referred for complete medical care, even—" the word even is underlined in the President's actual text, though not on the chart—"even if the ultimate result may be the termination of her pregnancy," which the President and this Member feels is the destruction of a human life with a soul.

Fourth: "Referrals may be made to title X programs to full service health care providers," that incidentally perform abortions, "but not to providers whose principal activity is providing abortion services."

These grisly mills that the gentleman from Oregon heard me refer to before skim money and cheat on their 1040's. They have no purpose other than to abort, abort, abort.

Now, family planning is family planning. A pregnant women is past the point of family planning, unless she wants to kill her child for gender selection or for convenience or for a new 1993 Mustang. Once a woman is pregnant, family planning becomes moot. A doctor can tell her to go to a full service clinic, but he cannot, under the rules of this Congress and the President, refer her to an abortuary mill that does nothing else but kill human beings and send souls back to God.

Now, look at Moses up there and Mimonides, Saint Innocent III, and Saint Edward the Confessor and Saint Alphonse X and Saint Gregory and the great Saint Louis. Look at Justinian, who was well-named. Do you think any of these people on our judgment day are going to tell us, "Don't worry, you are home free. Abortion, killing children that God ordained into existence is OK."

We had 33 Members sitting up here in the northwest corner of the gallery from the people's—not—Republic—not—of China. It is the most populous country in the world. The United States is 255 million, China is 1,255,000,000. Only India is more populous.

After the dissolution of the properly named evil empire, the Soviet Union, we became the third most populous nation in the world. And we are inching, inching inexorably toward the policies of China. And if Clinton keeps his gap and survives because 20 percent of America do not know about the character issue he will have veto-proof Houses and we are going to become as abortion-oriented as Russia and all of those so-called republics under Russia.

□ 1210

We have not yet reached the point of China. And think of this simple, logical observation. In China, the word "brother" is illegal. In China the word "sister" is illegal. Almost every one of us has a brother or sister or both. In China, however, a person cannot, if they have a child, create a brother or a sister for that child. It is illegal. That country is five times bigger than we are.

I wonder what stories those 33 people from the People's—not—Republic—not—of China, Mainland China, are going to take back. They may tell their colleagues to hang on, we kill second children here in forced, coercive abortions, but America is coming our direction.

Only Romania, where the ego maniacal trip of Ceausescu outlawed abortions after they had been legal for a quarter of a century, only there among all the Communist, Godless countries was abortion looked at as something other than a medical procedure. And it is unfortunate that Romania has given the anti-abortion movement a real name among many not so well informed about this stain on our country.

Family planning is not abortion.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank the chairman for yielding time to me and I thank him for his great leadership on this important issue.

Following the former speaker, I would like to bring us back to America. This is America, and we have the greatest Constitution in all the world.

And all the countries in the world that are seeking democracy have sent for our Constitution. So I think it

would be really fitting to just read a little bit from that Constitution, from the great Preamble that says in part:

We, the people of the United States, in order to form a more perfect union and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Then if we go further into the first amendment, we see "Congress shall make no law abridging the freedom of speech."

These words are beautiful words: "liberty, freedom."

Today we should be loyal to our Constitution and to those very important concepts of liberty and freedom of speech. We should overturn this gag rule, which slashes at those fundamental freedoms.

Liberty means the right to say the truth, and it also means the right to hear the truth. And freedom of speech, that is the right to talk to someone and tell them words that one thinks are important for them to hear. It is important that health care workers be free and be able to speak freely.

So this argument is not about shouting, as some of our colleagues on the other side of the aisle have said. It is about speaking, speaking the truth to our people.

The President of the United States and Members of this House who want to outlaw abortion have not succeeded in their fight. And let me tell my colleagues the reason they have not succeeded in their fight. It is because the people disagree with them. People want to see Roe versus Wade be made the law of the land, and they do not want to outlaw a woman's right to choose.

So what the President and his allies here in Congress are trying to do is stop abortion through the back door or, actually, through the front door of health care clinics. That is wrong, my colleagues. That is wrong.

When we debate whether abortion should be legal or not, when we vote on the Freedom of Choice Act, then we will vote up or down on that question. But to put a gag around health care workers, to stop them from telling the truth, to force many clinics to turn away needed Federal funds that they need desperately to provide health care in this Nation, where already the health care system is breaking down, that is wrong.

Let us overturn this gag rule. Let us stand up for liberty and freedom of speech. Let us trust our people. Vote to override.

Mr. DANNEMEYER. Mr. Speaker, I yield one and one-half minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I am very pleased to respond to my dear friend, the gentlewoman from California. She cited the first amendment. "Congress shall make no law abridging freedom of speech." But subsidy is not censorship. Unless one is able to make distinctions like this, then I think we are in great difficulty.

Freedom of speech does not require the Government to buy a typewriter or a megaphone for everybody who wishes to exercise this right. What this family planning program is is a family planning program. It is not for abortion. It is not for prenatal or postnatal care.

Abortion is not a part of family planning. So we are getting what we paid for. The same Court that just upheld Roe versus Wade, a decision that I am sure the gentlewoman thinks is a landmark in our judicial history, is the same Court that upheld Rust versus Sullivan concerning this title X issue. It is not an abridgement of the first amendment for the taxpayers not to pay for abortion advice.

We are not setting up an abortion program. This is a program of family planning. Therefore, I hope we will sustain the President's veto.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I rise to urge support for the override.

Mr. Speaker, once again, supporters of the gag rule have come out on the floor and worked to say that those in the family planning clinics are pushing abortions, urging abortions, encouraging abortions.

I would say to my colleagues, before they vote, I would ask that they look at page 2 of the bill. Page 2 of the bill says very specifically all that can be offered is nondirected counseling and information, nondirected, a program that does what so many of the supporters of the gag rule say is happening. Encouraging abortion, they lose their grant. That is it.

That is why millions of Americans join those on the floor of this Congress urging that this veto be overridden and that medical censorship be kept out of the doctors' offices. The American Medical Association has made it very clear, and our colleagues have heard an effort to distort their position. They believe that the gag rule disrupts the doctor-patient relationship. So here we have a chance to be on the side of sensible medical practice, which is to get all access to relevant medical information and ensure that none of our citizens, none, are relegated to second-class medical status.

I urge the support of my colleagues to override the veto.

Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding time to me.

By supporting the gag rule, Mr. Bush has decided that the women of America should not even talk about their legal options in family planning clinics. Instead he wants them to read his lips as he imposes the gag rule.

When a frightened, pregnant teenager seeks help and advice and medical information in the only place that she can get it, Mr. Bush wants her to read his lips, as he closes off access to good quality medical relevant information that she needs with his gag rule.

And when the rape victim finds herself in the most difficult of quandaries, that of being impregnated by the rapist, he would have her read his lips and deny her, the victim, of sound medical advice because of this gag rule.

Mr. Speaker, the President wants us to fund counseling agencies but he does not want them to counsel. Like a character from an Orwellian novel, he would have us support agencies which would only pretend to help.

I would urge my colleagues to vote to override this unfortunate veto.

□ 1220

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I rise today with no small amount of concern and anxiety about the position I find myself in. My President is not supportive of my formal position on the specific proposal before us, but I am reminded of the fact that my President, when he was a Member of the House, became a leader for family planning in this country. He took a second place to no one in proposing family planning effects that would work for all Americans.

It is with that in mind that I rise today to urge my colleagues to consider a yes vote. I do so simply because this pro-life Member feels very strongly that life is protected best by making sure that information is available to those who need it most.

I would use one personal illustration. A relative living with my wife and I, told my wife that she was pregnant and was going to have an abortion. After serious conversation, Arlene referred that relative to a title 10 clinic locally. After counseling, finally she said to me, "JERRY, as a result of the counseling I received at the clinic I have decided I am going to have my child."

Just a short time ago I had the opportunity to talk with that 6-year-old girl in Sacramento, CA. She would not have been there if it had not been for the availability of adequate and comprehensive title X counseling. It is very important, if we are pro-life and concerned about life in and out of the womb, that we are willing to recognize that there needs to be counseling available to all Americans in a fashion that is timely, and that provides them with the information needed to make a balanced judgment.

Mr. DANNEMEYER. Mr. Speaker, I yield 5 minutes to my colleague, the distinguished gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding time to me.

Mr. Speaker, it is truly a pity and a disgrace, really, that the lives of millions of innocent unborn baby girls and boys of all races and colors have so few friends in the major media and in the 102d Congress. It seems to me to be a tragedy with few parallels in modern times, that so many of the most gifted men and women of our day, including colleagues that I like and respect, are unwilling or perhaps are politically unable, or so they think, to look beyond the ultraslick propaganda that so cleverly sanitizes the butchery of abortion.

We all know in our heart of hearts, Mr. Speaker, that the easy sophistry of choice is merely a smokescreen, an artful dodge, designed to absolve us of our responsibility to the innocent child in the womb and to his or her mother, both of whom need compassion and tangible assistance. We myopically wash our hands of the responsibility to protect vulnerable babies from suction machines, from sharp knives, and chemical poisons, and think we have done a noble thing and a good day's work.

Of course, the slick propagandists applaud and smile over the apparent success of their deception, while all the while their focus groups and pollsters suggest new and exciting ways to frame the issue in order to avoid the issue, so we get more clever and misleading terms and euphemisms like "the gag rule."

Of course, somewhere along the line, Mr. Speaker, that which is truthful, honorable, and right falls by the wayside and millions of children die needlessly while we play word games. Along the way, Mr. Speaker, children, God's most precious gift, are systematically dehumanized, devalued, trivialized, slandered, and turned into objects and throwaways.

Unborn babies' fragile bodies are cut like tumors, their skulls crushed like walnuts in a nutcracker. Poisons, including high concentrated salt solutions, are injected into babies, resulting in chemical burns, extreme agony, pain, and ultimately death. This we euphemistically call choice.

When attempts are made to end taxpayer funding for counseling and referrals for abortion on demand by nonphysicians, the issue is framed as the gag rule. Mr. Speaker, a pro-life remnant comprised of Democrats and Republicans in the House will stand tall today. Members on both sides of the aisle will join our courageous President, George Bush, in preserving the new title X regulations, regulations that are prochild, promother, and profamily planning.

I concede it is not an easy vote, because it so easily lends itself to demagoguery from certain individuals in our respective congressional districts. What else is new? By sustaining the President's veto, however, this is the right vote.

By sustaining the veto, the Members will say yes to family planning, not to abortion as a method of family planning, a position even the polls say Americans overwhelmingly back.

By sustaining the veto, Members can say yes to prenatal care.

Do not forget that the Bush regulations require a referral of an expectant mom to a provider of prenatal care. Prenatal care is the very antithesis of abortion. Parental care nurtures life, abortion destroys it.

By sustaining the veto, Mr. Speaker, we say loud and clear that pregnancy is not a disease, the baby not a cancer or a cyst to be cured by destruction.

By sustaining the veto we recognize the fact that counseling and referring teenaged mothers to abortion mills by the tens of thousands, often without parents' knowledge or consent, is a cop out of our responsibility to the welfare of the young women of this Nation.

By now the Members know that Planned Parenthood, a major recipient of title X funds, performs, counsels, and refers for over 200,000 abortions per year, and many of those abortions are on teenaged mothers.

Finally, Mr. Speaker, by sustaining the veto, we offer this organization and others, the choice: Either you are abortionists or you are family planners. Title X, Mr. Speaker, was intended to be a family planning program, not a program that facilitates the demise of America's most vulnerable minority, unborn children.

The SPEAKER pro tempore (Mr. MAZZOLI). All time has expired for the time controlled by the gentleman from California [Mr. DANNEMEYER].

Mr. WAXMAN. Mr. Speaker, I had planned to close the debate, and I will, but first, I yield 1 minute of my 4 minutes remaining to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Speaker, I thank the gentleman for yielding time to me, and I appreciate my colleagues acceding to that request.

Mr. Speaker, I am not here to disagree with the arguments advanced on our side of the aisle relative to abortion. Let us make this clear what this debate is about. It is about the oath we took when we were allowed the great honor of representing people in the United States. It is about the oath we took in this well together when we raised our hands and swore that we would uphold the laws of the land. The law of the land today, like it or not, is that abortion is legal in America.

If the Members disagree with the laws, they are mandated, I believe they believe they are morally authorized to change that law, but they cannot in this country ignore that law, thwart that law, try and unfund that law. That is a direct violation of everything we stand for, of the oath that we took, of our future, and if we begin now we begin a long road to breaking that promise to the American people.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] has 3 minutes remaining to end debate.

Mr. WAXMAN. Mr. Speaker, I listened to the debate and to those who are strongly against abortion arguing that we should not overturn the President's veto because they do not want abortions in this country. I respect what they have to say and the sincerity in which they say it, but this bill is not about providing abortions or paying for abortions. It is about giving women the information that they need to make a decision for themselves.

There are some people against abortions under any circumstances. There are others that say they think that abortion ought to be performed under some circumstances, such as rape or incest. If a poor woman who has been raped comes into a family planning clinic and she wants to talk to a doctor or nurse-practitioner about the options available to her, she cannot even discuss that, even get an answer to a question about terminating the pregnancy.

□ 1230

The law had been that a family planning clinic could give a woman the three options: prenatal care, abortion, or termination of the pregnancy, but not to urge any of those options. Under the Bush administration's proposal with this gag rule, they could talk about prenatal care or adoption, but they cannot even mention the word "abortion." That seems to me unrealistic, and it is to deny people information.

The law already denies the family planning clinics the opportunity to provide abortions. That is not the issue. What this gag rule keeps from happening in a family planning clinic is a doctor or nurse or other counselor from freely, openly answering questions, maybe even answering questions that will lead a woman into changing her mind and to avoid an abortion and carry a baby to term because of the adoption option. But we should not gag the discussion and keep people from discussing all of these options.

I urge my colleagues to reject this veto, pass the bill that reauthorizes the family planning clinics, and allows all options to be discussed, and let us get on with the opportunity to avoid pregnancies through contraception and contraception counseling so that we can avoid the reason for abortions themselves which are unintended, unwanted pregnancies that may be avoided.

Mr. Speaker, I urge the passage of this legislation.

Mr. VENTO. Mr. Speaker, I rise in support of an override of the President's veto of S. 323, which reauthorizes title X, the federally funded family planning program and overturns the gag rule on federally funded family planning clinics. The President's opposition to the free flow of information in family planning clin-

ics is typical of his administration's indifference to the needs of women, particularly low-income women who use such clinics.

The central purpose of the title X program is the provision of family planning services, but for many women a title X funded health professional is their only source of primary health care. To over 4 million women, the title X program provides important medical services, such as screening for breast and cervical cancers, sexually transmitted diseases, and maternal and prenatal health advice. The gag rule will obstruct many low-income women from gaining access to primary and preventive health care services. At a time when our country is experiencing a health care crisis, high unemployment, and a weak economy, when millions of people have no health care insurance, we must not limit or qualify the availability of primary health care services and the important flow of objective information that they provide.

The gag rule interferes with a patient's ability to get confidential advice and information from health professionals. Preventing these clinics from providing information on all options deprives a woman of the opportunity to make an informed decision about her pregnancy and other health conditions.

People have a right to know their legal options whether President Bush agrees or disagrees with such options. Counselors in family planning clinics must be able to talk about prenatal care, adoption, and about another legal option, abortion. Certainly, that doesn't mean they promote it. The administration does not trust women to make decisions for themselves. President Bush does not trust women enough to allow them access to information. This is not a question of whether or not you support the right to have an abortion. It is a question of whether or not you trust women to think for themselves. The Bush administration policy in effect would remove the discussion and knowledge concerning pregnancy to the dark ages. This is clearly irresponsible and an example of ideological polarization interfering with explaining the facts of law and legal policies.

Political ideologues need to get out of the way and let women make their own decisions. The issues of repealing the gag rule is not to allow federally funded family planning personnel to encourage women to have an abortion. This hasn't been a problem in the past and it isn't a problem today. The General Accounting Office [GAO] has reported that there is no evidence of this happening to date. The Bush administration gag rule denies women access to information, interfering with a woman's ability to make a very difficult personal decision. It ignores the fact that abortion is a legal option and confuses the knowledge of a legal option with the decision to exercise that option. Decisions concerning pregnancy are some of the most difficult and personal decisions that a woman faces. Women need the information, all the information and support that is available, not a strained version of the facts censored by a politically ideological President or Members of Congress.

Mr. FAZIO. Mr. Speaker, I rise in support of the veto override of S. 323, the family planning reauthorization bill—the bill that reauthorizes funding for the Federal family planning, or title X, program.

The scope of S. 323 goes far beyond family planning, however. The title X program also provides other preventive health care services to approximately 4 million low-income women and teenagers at 4,000 clinics across America. It also provides infertility services, as well as counseling, screening, and referral for basic gynecologic care, breast and cervical cancer, hypertension, diabetes, anemia, kidney dysfunction, sexually transmitted diseases, and HIV. Without title X, millions of American women would have no other accessible, affordable source for quality, comprehensive health care services. It is the only source of health care for 83 percent of its clients and for many of them it is the single entry point into the entire health care system.

California has received title X funds since the Public Health Services Act was passed in 1970. Last year, California clinics used these funds to provide services to approximately 450,000 clients. Twenty-six percent of these clients are under 20 years of age, and 58 percent are aged 20 to 29. This year, California family planning clinics will receive approximately $11 million in title X funds.

When we support contraceptive services—both care and supplies—we thwart pregnancies and, ultimately, the need for abortion. For example, according to the California Family Planning Council, an estimated 138,000 unintended pregnancies are averted in California every year as a result of publicly funded contraception. Each client seen at a title X funded clinic costs the Federal Government approximately $35 annually. And, every one of these dollars spent on family planning programs in California saves $11.20 in public costs associated with unintended pregnancy—such as Medi-Cal delivery and continuing maternity and infant care, Medi-Cal abortions, aid to families with dependent children, food stamps, and other social service costs. But the annual costs of unintended pregnancies for clients eligible for Medi-Cal coverage for maternity and infant care, AFDC, WIC, and food stamps average $9,383 for those women who carry their pregnancies to term.

S. 323 continues to prohibit the use of its funds for abortion and additionally requires that all clinics that receive funding comply with their State laws when it comes to requiring the consent or notification of a parent for minors who are seeking privately funded abortions.

However, controversy surrounds S. 323 because it contains a provision that the administration's oppressive gag rule and, by doing so, allows us to return to a policy that permits doctors, nurses, and other health care personnel to answer all of a patient's questions about her pregnancy. The gag rule, on the other hand, prevents health care providers in federally supported family planning clinics from simply informing a pregnant woman of all her options. Even if a women has been raped, is a victim of incest, or her health is seriously threatened by her pregnancy, her health care provider would not be able to tell her the truth about her choices.

This restraint is even more alarming because it goes beyond interference with a woman's reproductive health care. This burdensome regulation is a direct assault on our first amendment right to freedom of speech. The gag rule is unprecedented Government interference with the confidential doctor-patient relationship, and has been denounced by every major medical group. The gag rule dictates to our Nation's medical community what they can and cannot talk about with their own patients. The gag rule prevents women from knowing about their legal medical options.

After holding the threat of gag rule implementation over the heads of our family planning clinics for nearly 5 years, the administration has finally decided to lower the boom. It has mandated that the gag rule go into effect immediately. And, adding salt to the wound, the administration has failed to provide clinics with guidance for implementation. As a result, clinics around the country are spinning their wheels trying to figure out how to comply with this abominable mandate. They are truly in a lose-lose situation. They must choose between possibly violating State laws by not informing patients of their options, and losing their funding for not complying with this unreasonable regulation.

But S. 323 clarifies the authority of family planning clinics to provide information and counseling regarding family planning. It requires them to provide a patient with complete, nondirective information about her pregnancy, if she asks for it. And S. 323 also contains a conscience clause—a provision that says that anyone who has a moral or religious objection to discussing a patient's options regarding her pregnancy does not have to.

S. 323 has the support of all major medical groups, including the American Medical Association, the American Nurses Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association. How can we here in this Congress not support and defend a woman's right to complete, accurate information about all of her health care options?

If we truly care about the health and welfare of our people, we have no choice but to support this reauthorization of America's family planning program. Mr. Speaker, I urge my colleagues on both sides of the aisle to support the veto override.

Mr. PORTER. Mr. Speaker, given the demographic makeup of the Nation and the way districts are drawn it is probable that most Members of this body do not represent large numbers of the poor. As a result, it is likely that many Members have not heard a great hue and cry from those impoverished Americans who are most severely affected by the administration's gag rule regulation. Thus, many Members may not truly appreciate just how profoundly troubling and discriminatory this regulation is.

This issue transcends the concerns of any one interest group, of any single political philosophy or, for that matter, of any particular position on the question of abortion. At issue is the proper nature of the relationship between citizens and their government in the world's greatest democracy.

The Supreme Court's ruling in Roe versus Wade is nearly 20 years old. Since that time, and despite unrelenting efforts to pack the Court with justices who would overturn Roe, the decision has been repeatedly reaffirmed. Most recently, in the Casey decision, Justices Souter, Kennedy, and O'Connor—in an act of profound personal courage and in the face of

overwhelming pressure—concluded as a matter of law that the decision to abort a fetus prior to viability remains with the woman.

At any time, the Constitution is what the Supreme Court of the United States says it is. This is the rule of law. This is how we have chosen to live as a people and how we have, in fact, lived for over 200 years. Not just as a lawyer, but as a citizen of this great Republic, I believe we must live according to the law whether we agree with that law or not. Of course, we retain the right to work to change the law through constitutionally protected means. But in the meantime, we must live in accordance with the law of the land. Roe versus Wade is the law and there is no right to misuse the organs and agencies of government to deny to the most vulnerable and unprotected among us the knowledge of the law and their rights under it.

Mr. Speaker, we cannot tolerate in this country a government that won't tell the truth to its people. Yet this is precisely what the Department of Health and Human Services has said we must do. This regulation requires that the collective teaching of our highest court over the past 20 years be ignored—that poor women not be told the truth.

This is an enduring strain that the administration has chosen to leave on its record. History will always remember that this administration was willing to tread on a most fundamental belief—that in this democracy we never allow the Government to undermine the bond of faith that must exist between the governed and their government. We should never allow this regulation to come into effect. Never should our Government be supporting the dissemination of misleading and untruthful information to the people. It is contrary to our collective values as Americans ever to do so.

I urge the Members to override this unwise veto.

Mr. MARLENEE. Mr. Speaker, today we are engaged in another political sham to embarrass the President.

I have no problem with true family planning programs. I wish that we could approve a bill that left the whole abortion issue out of the debate. Why can't my colleagues understand that abortion is not family planning?

Why must my colleagues insist on funding programs which the vast majority of the American people do not support? Why should we increase the deficit and increase the rate of abortions by funding programs which indirectly and, in some cases, directly encourage and promote abortion?

I find this particular debate very ironic. The same day these rules went into effect, directors of family planning clinics around Montana issued a press release saying that they will continue to provide information about abortion by using private funds. Please see the enclosed news articles as printed in the Billings Gazette on September 30, and the Great Falls Tribune on October 1.

What a revelation. This has been my point the whole time. You can talk about abortion, but don't use precious tax dollars to promote your pro-choice agenda.

Their decision last Wednesday proves that the dire predictions about the fate of these pro-choice family planning clinics have not come to pass. The sky has not fallen. They're just using their own money now instead of relying on taxpayers to push their agenda. And, that's not a radical right position—that's just plain, simple Montana common sense.

[From the Great Falls Tribune, Oct. 1, 1992]

STATE'S CLINICS NOT FAZED BY GAG RULE

HELENA (AP).—Montana family planning clinics say they won't be deterred by the Bush Administration's "gag rule" prohibiting health care professionals who receive federal family planning funds from mentioning abortion.

The rules, effective today, affects over 4,000 clinics.

"We want our clients to know that we will continue to provide complete counseling and referral services," said Mary Ellen Holverson, program manager at Helena Family Planning.

Joan McCracken, executive director of Intermountain Planned Parenthood, said clinics in Billings, Great Falls and Helena also will use non-Title 10 funds to give patients full information about reproductive health care.

"We find gagging professionals abhorrent," she said in a statement. "The gag rule is a direct violation of Planned Parenthood's policy of giving complete information so women can make good decisions."

McCracken said that since Title 10 funds are essential for limited income women, the clinics will use the funds for cancer screening, treatment of sexually transmitted diseases and birth control

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[From the Billings Gazette, Sept. 30, 1992]

CLINICS WILL CONTINUE ABORTION COUNSELING

Directors of family-planning clinics in Helena, Billings and Great Falls issued a press release Tuesday saying they will continue providing information about abortion despite a "gag rule" to go into effect Thursday.

The rule prohibits clinics that receive Title 10 family planning funds from mentioning abortion.

"We want our clients to know we will continue to provide complete counseling and referral services," said Mary Ellen Holverson, program manager at Helena Family Planning.

She said the clinic will replace the federal funds with other funds, including private donations.

Joan McCracken, executive director of Intermountain Planned Parenthood in Billings, Great Falls and Helena, said her clinics also will use non-Title 10 funds to provide full information to patients.

"We find gagging professionals abhorrent," she said. "The gag rule is a direct violation of Planned Parenthood's policy of giving complete information so women can make good decisions."

She said that because Title 10 funds are essential for limited-income women, "we will use those funds, within the constraints of the new regulations, to provide cancer screening, treatment of sexually transmitted diseases and birth control."

Nurse-practitioner Julie Groepper said Helena Family Planning doesn't perform or finance abortions, but "we do provide counseling that enables the woman to make an informed choice, free from coercion from others."

Lynne Bryant, also a nurse-practitioner, said most of the clinic's patients are lower-income people who can't afford to seek health care elsewhere.

"It's not fair for affluent women, who can afford private clinics, to secure complete services while those services are denied to poor people," she said. "As nurses and doctors, we are ethically obligated to provide the same information to all citizens."

Mr. SKAGGS. Mr. Speaker, with the implementation of the gag rule, the administration has managed to set in place one of the most contradictory and dangerous health care policies I have ever seen. In its zeal to restrict a woman's constitutional right to an abortion, President Bush has decided to restrict the ability of medical professionals to do their job.

Let it be very clear—the gag rule has more to do with the availability of comprehensive and accurate medical advice than about the issue of abortion.

The authors of the gag rule believe that abortions should not be legal—and so they decided that medical professionals should be prevented from providing information or advice to patients about abortion when the government provides funds for health care. But the fact is abortion is still a legal medical procedure.

Gagging health care professionals and restricting the type of medical information they can provide places them in an untenable situation: Uphold the law and lie, possibly endangering your patient, perhaps committing malpractice; or reject the law, serve the patient's best interest, and face possible criminal charges.

When people go to a clinic, they are seeking medical treatment and unbiased professional consultation. They want, need, and deserve the best possible treatment, information, and advice. Some government official's opinion about politically correct medical choices is not only irrelevant, it's dangerous.

As is tragically so often the case with a policy intended to oppose abortion, the major victims of the gag rule are among the most vulnerable of people—low-income women, who have no health care alternative to a government-funded clinic. If the gag rule keeps health care professionals from giving them comprehensive and accurate medical advice, the patients are left in the dark. Some may end up seeking abortions in a back alley. And some of them may die from the poor medical treatment they receive in those back alleys.

In the gag rule, we face the subtle tyranny of an ideology, a tyranny being exerted over science, medicine, and freedom of speech. I respect the right of those who subscribe to that ideology to do so, but they have no right to impose it on others. We must overturn this dangerous rule.

Mr. FAZIO. Mr. Speaker, the gag rule is a violation of the patient-provider relationship—a roadblock to a patient's right to know all of her reproductive health options.

As we speak, clinics around the country are spinning their wheels trying to figure out how to comply with this abominable regulation. They are truly in a catch-22 situation—they must choose between possibly violating State law by not informing patients of their options, or losing their funding for not complying with this mandate.

This is just another one of the President's campaign gimmicks.

We have got to stop this atrocious regulation—this yoke around the necks of title X providers which provide family planning and pre-

ventive health care services to approximately 4 million low-income women and teenagers at 4,000 clinics across America.

Ms. PELOSI. Mr. Speaker, I rise today in strong support of the vote to override the President's veto of S. 323, the conference report reauthorizing title X, the Nation's family planning program. I would like to commend Chairman WAXMAN for his hard work and commitment to this important issue. This conference report reauthorizes funding for title X clinics through 1997 and overturns the administration's gag rule regulations which prohibit abortion counseling in federally funded clinics.

The gag rule regulations went into effect yesterday. Congress can minimize the damage done by following the Senate vote of 73 to 26 and vote to override the President's veto of this bill.

Approximately 4 million women are served by title X clinics in the United States per year. That is an average of over 10,000 women a day. The only access to health care for many of these women is the title X programs. Since yesterday, the administration's gag rule could mean that up to 20,000 women have already been denied their constitutional right to freedom of speech

With the gag rule regulations, the administration has completely mandated what some women are permitted to hear from medical personnel and what they can discuss. The issue here is fairness. Poor women are denied their rights solely because they cannot afford to go to a private doctor.

Mr. Speaker, I urge my colleagues to support this conference report and vote to override the President's vote and protect a woman's right to freedom of speech.

The SPEAKER pro tempore (Mr. MAZZOLI). All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objection of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 266, nays 148, not voting 19, a follows:

[Roll No. 452]

YEAS—266

| | | |
|---|---|---|
| Abercrombie | Boxer | Cooper |
| Ackerman | Brewster | Coughlin |
| Alexander | Brooks | Cox (IL) |
| Allen | Browder | Coyne |
| Anderson | Brown | Cramer |
| Andrews (ME) | Bruce | Darden |
| Andrews (NJ) | Bryant | DeFazio |
| Andrews (TX) | Byron | DeLauro |
| Anthony | Campbell (CA) | Dellums |
| Aspin | Campbell (CO) | Derrick |
| Atkins | Cardin | Dickinson |
| AuCoin | Carper | Dicks |
| Bacchus | Carr | Dingell |
| Ballenger | Chandler | Dixon |
| Beilenson | Chapman | Donnelly |
| Bentley | Clay | Dooley |
| Bereuter | Clement | Dorgan (ND) |
| Berman | Clinger | Downey |
| Bevill | Coleman (MO) | Durbin |
| Bilbray | Coleman (TX) | Dwyer |
| Boehlert | Collins (IL) | Early |
| Bonior | Collins (MI) | Eckart |
| Boucher | Condit | Edwards (CA) |
| Edwards (TX) | Lehman (FL) | Riggs |
| Engel | Levin (MI) | Roemer |
| English | Levine (CA) | Rose |
| Erdreich | Lewis (CA) | Rostenkowski |
| Espy | Lewis (GA) | Roukema |
| Evans | Lloyd | Rowland |
| Fascell | Long | Roybal |
| Fawell | Lowey (NY) | Russo |
| Fazio | Machtley | Sabo |
| Feighan | Markey | Sanders |
| Fish | Martin | Sangmeister |
| Foley | Martinez | Savage |
| Ford (MI) | Matsui | Sawyer |
| Ford (TN) | McCandless | Scheuer |
| Frank (MA) | McCloskey | Schiff |
| Franks (CT) | McCurdy | Schroeder |
| Frost | McDermott | Schumer |
| Gallo | McHugh | Serrano |
| Gejdenson | McMillan (NC) | Sharp |
| Gekas | McMillen (MD) | Shays |
| Gephardt | McNulty | Sikorski |
| Geren | Meyers | Sisisky |
| Gibbons | Mfume | Skaggs |
| Gilchrest | Miller (CA) | Skeen |
| Gilman | Miller (WA) | Slattery |
| Glickman | Mineta | Slaughter |
| Gonzalez | Mink | Smith (FL) |
| Gordon | Moakley | Smith (IA) |
| Gradison | Molinari | Smith (TX) |
| Green | Moody | Snowe |
| Hamilton | Moran | Solarz |
| Harris | Morella | Spratt |
| Hatcher | Morrison | Stallings |
| Hayes (IL) | Mrazek | Stark |
| Hefner | Nagle | Stokes |
| Hertel | Natcher | Studds |
| Hoagland | Neal (MA) | Swett |
| Hobson | Neal (NC) | Swift |
| Hochbrueckner | Nichols | Synar |
| Horn | Obey | Tanner |
| Horton | Olin | Thomas (CA) |
| Houghton | Olver | Thomas (GA) |
| Hoyer | Owens (NY) | Thomas (WY) |
| Hubbard | Owens (UT) | Thornton |
| Hughes | Pallone | Torres |
| Jacobs | Panetta | Torricelli |
| Jefferson | Pastor | Traficant |
| Jenkins | Patterson | Traxler |
| Johnson (CT) | Payne (NJ) | Unsoeld |
| Johnson (SD) | Payne (VA) | Upton |
| Johnston | Pease | Valentine |
| Jones | Pelosi | Vento |
| Jontz | Penny | Visclosky |
| Kennedy | Peterson (FL) | Washington |
| Kennelly | Pickett | Waters |
| Kleczka | Pickle | Waxman |
| Klug | Porter | Wheat |
| Kolbe | Price | Williams |
| Kopetski | Pursell | Wilson |
| Kostmayer | Ramstad | Wise |
| Lancaster | Rangel | Wolpe |
| Lantos | Ravenel | Wyden |
| LaRocco | Reed | Yates |
| Laughlin | Regula | Zeliff |
| Leach | Richardson | Zimmer |
| Lehman (CA) | Ridge | |

NAYS—148

| | | |
|---|---|---|
| Allard | DeLay | Hopkins |
| Annunzio | Doolittle | Hunter |
| Applegate | Dornan (CA) | Hutto |
| Archer | Dreier | Hyde |
| Armey | Duncan | Inhofe |
| Baker | Edwards (OK) | Ireland |
| Barrett | Emerson | James |
| Barton | Ewing | Johnson (TX) |
| Bateman | Fields | Kanjorski |
| Bennett | Gallegly | Kasich |
| Bilirakis | Gaydos | Kildee |
| Bliley | Gillmor | Kyl |
| Boehner | Gingrich | LaFalce |
| Borski | Goodling | Lagomarsino |
| Broomfield | Goss | Lent |
| Bunning | Grandy | Lewis (FL) |
| Burton | Gunderson | Lightfoot |
| Callahan | Hall (TX) | Livingston |
| Camp | Hammerschmidt | Lowery (CA) |
| Coble | Hancock | Luken |
| Combest | Hansen | Manton |
| Costello | Hastert | Marlenee |
| Cox (CA) | Hayes (LA) | Mazzoli |
| Crane | Hefley | McCollum |
| Cunningham | Henry | McDade |
| Dannemeyer | Herger | McEwen |
| de la Garza | Holloway | McGrath |
| Michel | Rahall | Stearns |
| Miller (OH) | Ray | Stenholm |
| Mollohan | Rhodes | Stump |
| Montgomery | Rinaldo | Sundquist |
| Moorhead | Ritter | Tallon |
| Murphy | Roberts | Tauzin |
| Murtha | Roe | Taylor (MS) |
| Myers | Rogers | Taylor (NC) |
| Nowak | Rohrabacher | Vander Jagt |
| Nussle | Ros-Lehtinen | Volkmer |
| Oakar | Roth | Vucanovich |
| Oberstar | Santorum | Walker |
| Ortiz | Sarpalius | Walsh |
| Orton | Saxton | Weber |
| Oxley | Schaefer | Weldon |
| Packard | Schulze | Whitten |
| Parker | Shaw | Wolf |
| Paxon | Shuster | Wylie |
| Perkins | Skelton | Yatron |
| Peterson (MN) | Smith (NJ) | Young (AK) |
| Petri | Smith (OR) | Young (FL) |
| Poshard | Solomon | |
| Quillen | Spence | |

NOT VOTING—19

| | | |
|---|---|---|
| Barnard | Foglietta | Mavroules |
| Blackwell | Guarini | McCrery |
| Bustamante | Hall (OH) | Sensenbrenner |
| Conyers | Huckaby | Staggers |
| Davis | Kaptur | Towns |
| Dymally | Kolter | |
| Flake | Lipinski | |

□ 1254

The Clerk announced the following pairs:

On the vote:

Mr. Guarini for, with Mr. Sensenbrenner against.

Ms. Kaptur, Mr. Towns, and Mr. Flake for, with Mr. McCrery against.

Mr. ORTON changed his vote from "yea" to "nay."

Mr. DINGELL and Mr. DICKINSON changed their vote from "nay" to "yea."

So, two-thirds not having voted in favor thereof, the bill was not passed, the veto of the President was sustained and the bill was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MAZZOLI). The Clerk will notify the Senate of the action of the House.

## APPOINTMENT OF CONFEREES ON H.R. 5427, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1993

Mr. FAZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5427) making appropriations for the legislative branch for the fiscal year ending September 30, 1993, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

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

MOTION TO INSTRUCT OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. LEWIS moves that the managers on the part of the House at the conference on the

disagreeing votes of the two Houses on the bill H.R. 5427 be instructed to agree to the amendment of the Senate numbered 36.

The SPEAKER pro tempore. The gentleman from California [Mr. LEWIS] will be recognized for 30 minutes, and the gentleman from California [Mr. FAZIO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. LEWIS].

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

My colleagues, the motion that I have presented to the desk is a motion to instruct our conferees relative to the bill that I have the responsibility of overseeing from the Republican point of view.

The legislative branch appropriations bill which passed the House on June 24, 1992, was the reflection of months and months of work on behalf of my chairman and myself. It was an attempt to make some real sense out of the direction of legislative appropriations.

The bill that we had presented to the House was approximately 5.6 percent below the 1992 spending levels. The House-passed bill is a very fiscally sound bill, an effort to constrain the spending of the House.

Mr. Speaker, I made the decision in the last couple of days to go forward with this motion to instruct our conferees because of my growing disappointment in the apparent commitment of the other body to consistently move in the direction of restraining the growth of the legislative branch.

As I indicated earlier, the appropriations work on this side was attempting to draw a line that committed the House as well as the Senate to a pattern that would retract the growth of spending in the legislative branch.

In the Senate, following their committee action, on the floor, my colleague from California, Senator SEYMOUR, presented an amendment that would reflect the very attitude that was the work of this House. I must say it is important that we express one more time our commitment to cutting back and restraining the spending within the appropriations of the legislative branch.

□ 1300

For that reason, my motion to instruct would have our conferees take with them to the conference with the Senate the House's commitment to reducing the growth of spending within the appropriations of the legislative branch.

This motion to instruct would commit us to a real dollar reduction of approximately 5 percent the first year and from there, potentially over a period of 3 years ongoing reduction in the pattern of growth for appropriations in this area.

It is very important, Mr. Speaker, as we go out on the campaign trail and talk about our desire to cut back the growth of government, that the legislative branch provide the lead in that connection. So this motion to instruct essentially would have our conferees follow that direction and communicate with the Senate our intention to be very, very tough, as far as appropriations are concerned for the legislative branch.

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

Mr. Speaker, I want to associate myself with much of what my colleague, the gentleman from California [Mr. LEWIS] has said.

Ironically, I have just completed a study before we go to conference during the decade or so that I have been chairman as to what the increases enacted by the Senate and the House have been. It is interesting, and I have not had a chance to tell my colleague, the ranking member this, but the Senate's own budget has gone up during that period of 10 years or so about 210 percent. The House budget is half that.

So as we provide comity to the other body in allowing their requests of us essentially to go unamended and unreduced, we have in effect built up a higher and higher Senate budget in proportion to that of the House.

I think the motivation of our colleagues here is clear. We fought very diligently to reduce this budget to the lowest point of any of the appropriation bills this year. We have reached an outlay figure in the House that was unprecedented. We actually have for 2 years running reduced our outlays in the legislative branch.

So I certainly think we have the spirit of the occasion and I look forward to working with my colleagues in conference to come back with something that would make us all proud.

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

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

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California [Mr. LEWIS].

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 402, nays 1, not voting 29, as follows:

[Roll No. 453]

YEAS—402

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

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

NAYS—1

Washington

NOT VOTING—29

| | | |
|---|---|---|
| Alexander | Foglietta | Kaptur |
| Anderson | Ford (MI) | Lipinski |
| Barnard | Gephardt | Lowery (CA) |
| Blackwell | Guarini | McCrery |
| Bustamante | Hall (OH) | Savage |
| Chandler | Hayes (LA) | Sensenbrenner |
| Davis | Henry | Serrano |
| Dymally | Holloway | Staggers |
| Edwards (OK) | Huckaby | Traxler |
| Flake | Hyde | |

□ 1324

Mr. FAWELL changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the Chair appoints the following conferees: Messrs. FAZIO, SMITH of Florida, OBEY, MURTHA, TRAXLER, LEHMAN of Florida, WHITTEN, LEWIS of California, and PORTER, Mrs. VUCANOVICH, and Mr. MCDADE.

There was no objection.

## MODIFICATIONS IN APPOINTMENT OF CONFEREES ON H.R. 11, REVENUE ACT OF 1992

The SPEAKER pro tempore. Pursuant to the authority granted on September 30, the Chair, without objection, announces the following modifications in the appointment of conferees on 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 additional conferees from the Committee on Agriculture, for consideration of sections 7123, 7126, and title VIII of the House bill, and sections 7171 and 7173 of title VIII of the Senate amendment, and modifications committed to conference: Messrs. DE LA GARZA, TALLON, and COLEMAN of Missouri.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, and Mr. WYLIE.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9212 of the Senate amendment, and modifications committed to conference: Messrs. TORRES, HUBBARD, and MCCANDLESS.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 9232 of the Senate amendment, and modifications committed to conference: Messrs. ANNUNZIO, HUBBARD, and WYLIE.

As additional conferees from the Committee on Education and Labor, for consideration of sections 7123 and 7125 of the House bill, and sections 2173, 4246, 7102, 7134(c), 7142–43, 7151, 7171, 7172, and 7176 of the Senate amendment, and modifications committed to conference: Messrs. FORD of Michigan, WILLIAMS, MARTINEZ, OWENS of New York, and PERKINS, Mrs. ROUKEMA, Mr. FAWELL, and Mr. BALLENGER.

As additional conferees from the Committee on Education and Labor, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Messrs. FORD of Michigan, GAYDOS, and GOODLING.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 7104, 7123, 7125, and 7126 of the House bill, and sections 2171–73, 2175, 2177–85, 6220, 6231–51, 7109, 7121, 7136, 7171–74, 10011(b), 10201, 14111–40, titles XI, XV, and XVI of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mrs. COLLINS of Illinois, and Messrs. WAXMAN, SIKORSKI, BRUCE, LENT, DANNEMEYER, and BLILEY.

*Provided*, That solely for consideration of sections 10011(b) and 10201 and title XI of the Senate amendment, Messrs. MARKEY, SYNAR, and BOUCHER are appointed in lieu of Messrs. WAXMAN, SIKORSKI, and BRUCE;

That solely for consideration of sections 2180–85, 6220, 6231–41, and 14111–40 of the Senate amendment, Mr. BILIRAKIS is appointed in lieu of Mr. LENT;

That solely for consideration of sections 2173, 2175, 6251, 10011(b), and 10201 of the Senate amendment, Mr. MCMILLAN of North Carolina is appointed in lieu of Mr. BLILEY; and

That solely for consideration of title XI of the Senate amendment, Mr. RINALDO is appointed in lieu of Mr. BLILEY.

As additional conferees from the Committee on Energy and Commerce, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, and LENT.

As additional conferees from the Committee on the Judiciary, for consideration of title VIII of the House bill, and title VIII of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, SCHUMER, and SENSENBRENNER.

As additional conferees from the Committee on the Judiciary, for consideration of section 9204 of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, EDWARDS of California, SYNAR, BRYANT, STAGGERS, FISH, MOORHEAD, and SMITH of Texas.

As additional conferees from the Committee on the Judiciary, for consideration of title X of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, SCHUMER, HUGHES, BRYANT, SANGMEISTER, SENSENBRENNER, SCHIFF, and RAMSTAD.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles XII and XIII of the Senate amendment, and modifications committed to conference: Messrs. STUDDS, HUBBARD, HUGHES, and TAUZIN, Mrs. UNSOELD, and Messrs. DAVIS, YOUNG of Alaska, and FIELDS.

As additional conferees from the Committee on Ways and Means, for consideration of sections 7123, 7125, 7126, and title VIII of the House bill, and sections 2173, 7171, 7173, titles VIII and X of the Senate amendment, and modifications committed to conference: Messrs. JACOBS, FORD of Tennessee, JENKINS, DOWNEY, GUARINI, RUSSO, PEASE, SCHULZE, GRADISON, THOMAS of California, and MCGRATH.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senator of the change in conferees.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3157. An act to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

The message also announced that the Senate had passed with amendments in

which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 939. An act to amend title 38, United States Code, with respect to housing loans for veterans, and for other purposes.

H.R. 1578. An act to amend title 38, United States Code, with respect to employment and reemployment rights of veterans and other members of the uniformed services.

H.R. 3665. An act to establish the Little Canyon National Preserve in the State of Alabama.

H.R. 5686. An act to make technical amendments to certain Federal Indian statutes.

The message also announced that the Senate agrees to the report of the committee on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2532) an act entitled The Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act."

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 20. An act to provide for the establishment, testing, and evaluation of strategic planning and performance measurement in the Federal Government, and for other purposes.

S. 1664. An act to establish the Keweenaw National Historical Park, and for other purposes.

S. 1704. An act to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

S. 1893. An act to adjust the boundaries of the Targhee National Forest, to authorize a land exchange involving the Kaniksu National Forest, and for other purposes.

S. 2890. An act to provide for the establishment of the Brown v. Board of Education National Historic Site in the State of Kansas, and for other purposes.

S. 2973. An act to amend title 38, United States Code, to improve the care and services furnished to women veterans who have experienced sexual trauma while on active duty, to study the needs of such veterans, to expand and improve other Department of Veterans' Affairs programs that provide care and services to women veterans, and for other purposes.

S. 2974. An act to amend title 38, United States Code, to revise certain administrative provisions relating to the United States Court of Veterans Appeals, and for other purposes.

S. 3100. An act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes.

S. 3134. An act to exapnd the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to impove school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start programs, and for other purposes.

S. Con. Res. 138. Concurrent resolution to authorize a correction in the enrollment of H.R. 2042.

S. Con. Res. 139. Concurrent resolution to authorize a correction in the enrollment of H.R. 1628.

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□1330

## WAIVING CERTAIN REQUIREMENTS AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 591 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 591

*Resolved*, That the requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is hereby waived with respect to any resolution reported from that committee for the remainder of the second session of the One Hundred Second Congress to provide for the consideration or disposition of: (1) a general appropriation bill, an amendment thereto, or a conference report thereon; (2) a conference report and any amendment reported in disagreement therewith; or (3) a joint resolution making continuing appropriations for the fiscal year 1993, an amendment thereto, or a conference report thereon.

SEC. 2. Notwithstanding the provisions of clause 2 of rule XXVIII and clause 8 of rule XXI, it shall be in order at any time for the remainder of the second session of the One Hundred Second Congress to consider a conference report and any amendments reported from conference in disagreement on the same day reported or any day thereafter if copies of the conference report and accompanying statement, together with the text of any amendment reported from conference in disagreement, have been available to Members for at least two hours before the beginning of such consideration. Such a conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement shall be considered as read.

SEC. 3. It shall be in order at any time for the remainder of the second session of the One Hundred Second Congress for the Speaker to entertain motions to suspend the rules, provided that the object of any such motion is announced from the floor at least two hours prior to its consideration.

SEC. 4. It shall be in order at any time for the remainder of the second session of the One Hundred Second Congress for the Speaker to declare recesses subject to the call of the Chair.

SEC. 5. Prior to the scheduling of any legislation under the special authorities provided for in this resolution, the Speaker or his designee shall consult with the Minority Leader or his designee.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] for the purpose of debate only, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the last days of the session are upon us. House Resolution 591 is the end-of-session, antigridlock resolution, also known as the recess express.

The resolution waives Clause 4(b) of rule XI. Clause 4(b) requires a two-thirds vote in order to consider a rule on the same day it is reported from the Rules Committee. The waiver applies to any resolution reported from the Rules Committee for the remainder of the session if it provides for the consideration of a general appropriation bill, or a joint resolution making continuing appropriations for fiscal year 1993, or to dispose of amendments, or any conference report.

For the remainder of this session, it will be in order to consider any conference report and any amendments in disagreement on the same day they are reported. However, copies of the conference report, accompanying statement, and any amendments in disagreement must be available to Members at least 2 hours before consideration.

Clause 2 of rule XXVIII and clause 8 of rule XXI are waived against consideration of conference reports and amendments in disagreement that meet the 2-hour availability requirement.

The rule grants the Speaker authority to entertain motions to suspend the rules—subject to a 2-hour notice requirement—and to declare recesses at any time for the remainder of the session.

Finally, the rule requires the Speaker or his designee to consult with the minority leader or his designee before scheduling legislation under the special authorities provided under this resolution.

Mr. Speaker, this is a fair resolution. It incorporates a number of suggestions from the minority. Mr. SOLOMON offered an amendment to the resolution which the committee adopted.

It is time to finish the business of the 102d Congress. This resolution makes it possible to complete our work.

I urge adoption of the resolution.

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

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

Mr. Speaker, it is with some ambivalence that I rise on this special authorities resolution, or martial law rule, as it has sometimes been euphemistically referred to in the past.

On the one hand, I am very sympathetic with the need to expedite our business in the waning hours of this Congress. We no longer have the luxury of 3-day layovers or 1-day layovers for bills, conference reports and order of business resolutions, if we are to adjourn in the next few days. And I think all of us want to get out of here in the next few days.

On the other hand, I am very leery about the potential abuses that could

occur when we allow for legislation to be rushed to the floor under very short notice, with Members not having the opportunity to know just what it is they are being asked to vote on.

I think we have a perfect example right here. Here is the HHS conference report, which weighs about 6 pounds.

Someone once said that laws are like sausages: People should not see how they are made. And that is especially true in the waning hours of this session when we are rushing to get out of here, and all sorts of legislative atrocities are committed, have been committed in the past—both intentionally and unintentionally.

Our Cloakroom phone recording, which announces the daily legislative program, often carries the message during the final days that "cats and dogs may be brought up at any time." And that is an apt description of the variety of small bills that are often called up on a moment's notice. And that can obviously make for even worse sausage in the final mix.

Having said all that, Mr. Speaker, I am reluctantly going to support this rule because we Republicans were able to get two provisions in here which otherwise would not have been included. Section 3 of the legislation allows for measures to be brought up under suspension of the rules on any of the remaining days of the session.

I would point out that House rule XXVII, the rule that is currently in effect, already provides that bills can be brought up under suspension during the last 6 days of a session. But that rule is not now in effect because we have not yet adopted an adjournment resolution, so we really do not know for sure what the last 6 days will be. We hope we are in the last 6 days right now.

At the suggestion of our staff, the majority revised section 3 to require that 2-hours notice be given prior to any measure being considered under suspension. And I want to make clear right now that I expect that notice to be made by oral announcement to the House and provided to our Cloakrooms in writing as well; that is, both Cloakrooms.

Another change that the Rules Committee accepted was my amendment to add a new section 5 that requires the Speaker or a designee to consult with the minority leader or his designee prior to scheduling any legislation under the special authorities provided for in this resolution.

That is ordinarily done anyway, but I think it is especially important that the practice be rigidly followed during these final days of this 102d Congress.

So I am grateful to the Rules Committee majority for accepting these two changes.

Mr. Speaker, there are two other provisions in this resolution which I would like to explain just briefly.

□ 1340

Section 1 of the resolution permits the same-day consideration of order of business resolutions from the Rules Committee without the two-thirds vote otherwise required under our rules. This same-day consideration of rules only applies in three situations:

First, to general appropriations bills, amendments thereto, or conference reports thereon;

Second, other conference reports and any amendments reported in disagreement; and

Third, any continuing appropriations resolution, amendment, or conference report thereon.

Mr. Speaker, I would again point out that under existing House rules, the two-thirds vote required for the same day consideration of special rules is automatically suspended on any matter during the last 3 days of a session.

But again, that rule cannot take effect until we have adopted an adjournment resolution, since we otherwise don't know which days are the last three.

This special authorities resolution is narrower than the House rule provision, since it does not apply to rules for the initial consideration of legislation.

Section 2 of this resolution provides that it will be in order to consider any conference report or amendment reported from conference in disagreement on the same day as reported, or any day thereafter, provided copies are available for at least, and this is a critical thing for Members on our side of the isle to note, for at least 2 hours before consideration.

Moreover, the rule provides that the conference reports and amendments in disagreement shall be considered as read.

Under House rule XXVIII, the 3-day layover requirement is suspended for conference reports and amendments in disagreement during the last 6 days of a session provided they are available 2 hours prior to consideration.

But again, we cannot take advantage of that rule until an adjournment resolution has been adopted, since we don't know which are the final six days of the session.

Mr. Speaker, the point I am trying to make about these special provisions is that they are not, and again, I would ask the Republican Members back in their offices to listen to this, they are not a radical departure from the existing House rules, which already recognize the impracticality of 1-day and 3-day layover requirements for various matters at the close of a session.

In conclusion, Mr. Speaker, while I realize that the minority has traditionally opposed these special authorities or martial law rules because of our apprehension about potential abuses, I am going to support this rule.

I do so because the majority has been willing to accede to our suggestions for special consultation and notice requirements on matters brought up under these expedited procedures.

I think with these minimal safeguards, and the expectation that the majority will operate in good faith and not try to pull any fast ones, and I do not think they will, we can bring this 102d Congress to a successful and expeditious conclusion.

So putting a lot of trust in my good friend, the gentleman from Massachusetts [Mr. MOAKLEY], as I always do, and in respect to the Speaker, I am going to support this rule and hope the rest of the membership will too.

Mr. MOAKLEY. Mr. Speaker, I have no requests for time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER], the deputy minority whip.

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

Mr. Speaker, I must rise with certain apprehension about this particular rule. I think the gentleman from New York has described it well, and did the House a real service with some of the new features that he has in this rule as compared to martial rules in the past. It is clear to me that we will have more notification, and we will have an opportunity to understand better some of the legislation coming to the floor. I must say that that is a help, not only to the minority but, it seems to me, to the majority.

The worst thing that can happen to this Congress is to have a lot of legislation flying onto the floor that no one knows the content of, and yet we are being asked to act on it. Whatever amount of notification we can get gives all of us a better chance to understand what it is that is going to be voted upon.

Within the regular processes, this rule certainly is an improvement over some past measures that we have had of a similar nature. I must say, I still have some apprehensions, however, because these kinds of rules do in fact point to both our failure and to our need to do our work better. The fact is that we have now gotten used to the pattern that if we hold legislation long enough, that ultimately it will come down to the last few days, and the chances are that it will not receive as much examination in the last few days or the last few hours of a session as it would otherwise.

Ultimately, what we get on the floor is a series of bills that have been negotiated under a very stiff deadline that may not have been looked at very carefully by the people who are examining the bills within the conference committees or in other forums, and then they are rushed onto the floor in a way that they cannot be examined with the same degree of diligence that would normally be given to these measures. That bothers me, and every time we

pass one of these martial law rules we in fact encourage that process to happen in another session and in another Congress, so I express some concerns about that as a vehicle for legislating.

Second, I think we do get into fairly dangerous ground here when we have a situation where we know that measure after measure is going to come to the floor with very little understanding, either by the subject matter committees, by the Committee on Rules, or ultimately, by the full membership, and it seems to me we are setting up a pattern for that to happen.

The other thing which compounds this is that in addition to the regular processes which this particular rule intends to cover, we also are going to have a series of bills brought out here under suspension of the rules. We will have long suspension calendars over the next couple of days that will further complicate the process, and then, in addition, there are going to be a number of unanimous consent types of bills brought to the floor.

I would like to talk about those for just a second, because that is the other part of the process that it seems to me breaks down at the end of a session. That is when a whole series of bills either cannot get before the Committee on Rules, cannot get on the suspension calendar, but begin to come to the floor under unanimous consent requests.

It is the intention of a few of us on the Republican side, and hopefully we might even be joined by a couple on the majority side, to begin to examine those unanimous consent requests and hold them to particular standards, that there would have to be wide agreement among the leadership to bring the bills onto the floor, and then when we get to the last few hours of the session that they ought to be limited to bills that are of minimal consequence in terms of taxpayer involvement.

Mr. Frenzel, who served in the last Congress, and I came to the floor and we set a standard of saying, "No bill of more than $1 million will be considered under unanimous consent in the last few hours of a session." My guess is that is probably the standard we are going to want to set this time, too, that some of us are going to want to look at these bills. If they come out under unanimous consent, if they cost more than $1 million, they simply will not be eligible for consideration or they will be objected to, kind of regardless of their merits.

Obviously there is a chance for leadership and so on to get involved in all of that, and there were modifications made. In general, having a rule like this that does tend to lower the numbers of bills coming to the floor, and I would hope that maybe we could operate under that standard as before. We ought not to have a bunch of bills going through here that cost lots of money that no one knows what is in them.

Mr. SOLOMON. I would say to the gentleman, he makes some very cogent points. He brings up the concerns that we really do have. But I think we ought to support the rule.

The gentleman is going to be a member of the Hamilton-Gradison joint committee on organization.

The gentleman from Pennsylvania has been one of the leaders in trying to reform this House. I would just point out that Republican leaders have appointed their Members to the bipartisan Joint Committee on Organization. Hopefully the Speaker and the majority leader of the other body will appoint their Members so we could get down to the business of trying to reform Congress. I appreciate the gentleman's comments.

Mr. WALKER. If the gentleman will continue to yield, I think the gentleman makes a good point. This is the kind of thing that ought to be looked at as part of the reform effort, as well. If we can get all Members appointed so we can begin to think about these things as we come into the end of the session, one of the things that really ought to be looked at is this pattern of too much legislation being held to the end of the session and then not getting the kind of consideration it probably deserves.

Hopefully part of the Hamilton-Gradison effort might be to make the legislative process a little more effective and efficient so we do not end up with this kind of a pattern.

Mr. SOLOMON. Mr. Speaker, I urge support for the resolution, and I yield back the balance of my time.

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

The previous question was ordered.

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

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 316, nays 93, not voting 23, as follows:

[Roll No. 454]

YEAS—316

| | | |
|---|---|---|
| Abercrombie | Andrews (TX) | AuCoin |
| Ackerman | Annunzio | Bacchus |
| Alexander | Anthony | Barrett |
| Anderson | Applegate | Bateman |
| Andrews (ME) | Aspin | Beilenson |
| Andrews (NJ) | Atkins | Bennett |
| Berman | Hoagland | Pallone |
| Bevill | Hobson | Panetta |
| Bilirakis | Hochbrueckner | Parker |
| Bliley | Horn | Pastor |
| Boehlert | Horton | Patterson |
| Bonior | Houghton | Payne (NJ) |
| Borski | Hoyer | Payne (VA) |
| Boucher | Hubbard | Pease |
| Boxer | Hughes | Pelosi |
| Brewster | Hutto | Penny |
| Brooks | Ireland | Perkins |
| Broomfield | Jacobs | Peterson (FL) |
| Browder | Jefferson | Peterson (MN) |
| Brown | Jenkins | Petri |
| Bruce | Johnson (SD) | Pickett |
| Bryant | Johnston | Pickle |
| Byron | Jones | Porter |
| Camp | Jontz | Poshard |
| Campbell (CO) | Kanjorski | Price |
| Cardin | Kasich | Pursell |
| Carper | Kennedy | Quillen |
| Chapman | Kennelly | Rahall |
| Clay | Kildee | Rangel |
| Clement | Kleczka | Ravenel |
| Clinger | Kolbe | Ray |
| Coble | Kolter | Reed |
| Coleman (TX) | Kopetski | Regula |
| Collins (MI) | Kostmayer | Rhodes |
| Combest | LaFalce | Richardson |
| Condit | Lancaster | Ridge |
| Cooper | Lantos | Rinaldo |
| Costello | LaRocco | Roe |
| Cox (IL) | Laughlin | Roemer |
| Coyne | Leach | Rogers |
| Cramer | Lehman (FL) | Rose |
| Darden | Lent | Rostenkowski |
| Davis | Levin (MI) | Roukema |
| de la Garza | Levine (CA) | Rowland |
| DeFazio | Lewis (CA) | Roybal |
| DeLauro | Lewis (GA) | Sabo |
| Dellums | Lightfoot | Sanders |
| Derrick | Livingston | Sangmeister |
| Dickinson | Lloyd | Sarpalius |
| Dicks | Long | Sawyer |
| Dingell | Lowery (CA) | Saxton |
| Dixon | Lowey (NY) | Scheuer |
| Donnelly | Luken | Schroeder |
| Dorgan (ND) | Machtley | Schumer |
| Dornan (CA) | Manton | Serrano |
| Downey | Markey | Sharp |
| Dreier | Martin | Shays |
| Durbin | Martinez | Shuster |
| Dwyer | Matsui | Sikorski |
| Early | Mavroules | Sisisky |
| Eckart | Mazzoli | Skaggs |
| Edwards (CA) | McCandless | Skeen |
| Edwards (OK) | McCloskey | Skelton |
| Edwards (TX) | McCollum | Slattery |
| Engel | McCurdy | Slaughter |
| English | McDade | Smith (IA) |
| Erdreich | McDermott | Smith (TX) |
| Espy | McGrath | Solarz |
| Evans | McHugh | Solomon |
| Fascell | McMillan (NC) | Spratt |
| Fazio | McMillen (MD) | Stallings |
| Feighan | McNulty | Stark |
| Fish | Meyers | Stenholm |
| Ford (MI) | Mfume | Stokes |
| Ford (TN) | Michel | Studds |
| Frank (MA) | Miller (CA) | Swett |
| Frost | Miller (WA) | Swift |
| Gallo | Mineta | Synar |
| Gaydos | Mink | Tallon |
| Gejdenson | Moakley | Tanner |
| Gephardt | Molinari | Tauzin |
| Geren | Mollohan | Taylor (MS) |
| Gibbons | Montgomery | Thomas (CA) |
| Gilchrest | Moody | Thomas (GA) |
| Gilman | Moran | Thornton |
| Gingrich | Morella | Torres |
| Glickman | Morrison | Torricelli |
| Gonzalez | Mrazek | Towns |
| Gordon | Murphy | Traficant |
| Gradison | Murtha | Traxler |
| Green | Nagle | Unsoeld |
| Guarini | Natcher | Valentine |
| Gunderson | Neal (MA) | Vento |
| Hall (TX) | Oakar | Visclosky |
| Hamilton | Oberstar | Volkmer |
| Hansen | Obey | Walsh |
| Harris | Olin | Washington |
| Hatcher | Olver | Waters |
| Hayes (IL) | Ortiz | Waxman |
| Hayes (LA) | Orton | Weldon |
| Hefner | Owens (NY) | Wheat |
| Hertel | Owens (UT) | Whitten |

| | | |
|---|---|---|
| Williams | Wolpe | Yatron |
| Wilson | Wyden | Young (AK) |
| Wise | Wylie | |
| Wolf | Yates | |

NAYS—93

| | | |
|---|---|---|
| Allard | Gallegly | Packard |
| Allen | Gekas | Paxon |
| Archer | Gillmor | Ramstad |
| Armey | Goodling | Riggs |
| Baker | Goss | Ritter |
| Ballenger | Grandy | Roberts |
| Barton | Hammerschmidt | Rohrabacher |
| Bentley | Hancock | Ros-Lehtinen |
| Bereuter | Hastert | Roth |
| Bilbray | Hefley | Santorum |
| Boehner | Herger | Schaefer |
| Bunning | Hopkins | Schiff |
| Burton | Hunter | Schulze |
| Callahan | Hyde | Shaw |
| Campbell (CA) | Inhofe | Smith (NJ) |
| Carr | James | Smith (OR) |
| Coleman (MO) | Johnson (CT) | Snowe |
| Conyers | Johnson (TX) | Spence |
| Cox (CA) | Kyl | Stearns |
| Crane | Lagomarsino | Stump |
| Cunningham | Lehman (CA) | Sundquist |
| Dannemeyer | Lewis (FL) | Taylor (NC) |
| DeLay | Marlenee | Thomas (WY) |
| Dooley | McEwen | Upton |
| Doolittle | Miller (OH) | Vander Jagt |
| Duncan | Moorhead | Vucanovich |
| Emerson | Myers | Walker |
| Ewing | Neal (NC) | Weber |
| Fawell | Nichols | Young (FL) |
| Fields | Nussle | Zeliff |
| Franks (CT) | Oxley | Zimmer |

NOT VOTING—23

| | | |
|---|---|---|
| Barnard | Foglietta | McCrery |
| Blackwell | Hall (OH) | Nowak |
| Bustamante | Henry | Russo |
| Chandler | Holloway | Savage |
| Collins (IL) | Huckaby | Sensenbrenner |
| Coughlin | Kaptur | Smith (FL) |
| Dymally | Klug | Staggers |
| Flake | Lipinski | |

□ 1410

Mr. DOOLEY and Mr. PAXON changed their vote from "yea" to "nay."

Mr. SKEEN and Mr. TAYLOR of Mississippi changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## MONTANA NATIONAL FOREST MANAGEMENT ACT OF 1992

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 590 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H.R. 590

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (S. 1696) to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(1)(6) of rule XI or clause 7 of rule XIII are waived. General debate shall be confined to the bill and shall not exceed one hour, with forty-five minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and fifteen minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and fifteen minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed, may be offered only by the the named proponent or a designee, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against amendments printed in the report are waived. If more than one of the amendments is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion expect one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. At this time, I yield the customary 30 minutes for the purpose of debate only to the gentleman from California, [Mr. DREIER]. Pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 590 provides for the consideration of S. 1696, the Montana National Forest Management Act of 1992. The rule provides for 1 hour of general debate, with 45 minutes to be equally divided and controlled by the chairman and ranking minority member of the Interior and Insular Affairs Committee, and 15 minutes to be equally divided and controlled by the chairman and ranking minority member of the Merchant Marine and Fisheries Committee.

The rule waives clause 2(1)(6) of rule XI and clause 7 of rule XIII against consideration of the bill.

The rule makes in order the Interior Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment. The substitute will be considered as read. Clause 7 of rule XVI is waived against the substitute.

The rule makes in order no other amendments except those printed in the report to accompany the rule, to be considered in the order and manner specified in the report.

The amendments in the report are the Marlenee and Kostmayer substitutes. They will be considered in that order under the king-of-the-hill procedure. If more than one amendment is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House.

All points of order are waived against the amendments in the report and are not subject to amendment. Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, this rule provides for the consideration of three separate alternative plans which will designate as wilderness certain land in the State of Montana.

The history of the effort to designate land in Montana as wilderness is long and complex. Most recently, in 1988, the House and Senate passed wilderness legislation, but the bill was pocket vetoed by President Reagan.

Earlier this Congress the Senate passed S. 1696. The House Interior and Insular Affairs Committee reported out a bill which was similar to the legislation which was vetoed in 1988, but different from S. 1696. The House Agriculture Committee, which had joint jurisdiction over the legislation, reported out a version which is identical to the Senate-passed bill.

House Resolution 590 provides the House with a choice between three separate and distinct plans: The Interior Committee bill, the Marlenee substitute, and the Kostmayer substitute.

I urge my colleagues to adopt the resolution.

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

Mr. Speaker, this is a restrictive rule. I should say that up in the Committee on Rules we did not push for an open rule last night because the rule does make in order all the substitute amendments that were presented to our committee.

My major regret in not pushing for a rule—Mr. Speaker, I would like to respond to the heckling from the floor that came from the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, Mr. GONZALEZ. His concern over an open rule is justified, and I have to say that my concern on this rule itself is that

we are clearly breaking this wonderful record that has been established by my fellow Californian, the distinguished chairman of the Committee on Interior and Insular Affairs, a man to whom I refer as "Mr. Open Rule," along with Chairman GONZALEZ, that gentleman being the gentleman from California, GEORGE MILLER, chairman of the Committee on Interior and Insular Affairs.

I hope very much as we move into the 103d Congress that Chairman MILLER realizes that his work is cut out for him to once again attain that title of "Mr. Open Rule." I should say, Mr. Speaker, I am pleased that the rule does make in order the Marlenee substitute, which is identical to the Senate version of this legislation. I point out that adoption of the Marlenee amendment is the one way to ensure enactment of a Montana wilderness bill this year.

I would also like to point to a letter that came to the Committee on Rules from the Senate sponsor of the legislation, which states that passage of the Marlenee amendment "would be in the best interest of Montana and the entire Nation." That letter came from Senator MAX BAUCUS, and I include it and the statement of administration policy.

STATEMENT OF ADMINISTRATION POLICY

The Administration opposes House passage of S. 1696, as reported by the House Interior and Insular Affairs Committee. The Administration supports S. 1696, as passed by the Senate. During further Congressional consideration of the bill, the Administration will seek the following amendments:

Eliminate the Federal reservation of water rights for wilderness purposes.

Strengthen the provision to "release" for multiple-use management those roadless areas not designated as wilderness under the Forest Service's management plan. This would exclude from judicial review the initial decisions in the Forest Plans to recommend certain areas for wilderness designation and allocate others for multiple-use management. Such release language would be consistent with S. 1696, as passed by the Senate.

Modify certain wilderness areas to be more consistent with S. 1696, as passed by the Senate.

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U.S. SENATE,
*Washington, DC, October 1, 1992.*

Hon. JOE MOAKLEY,
*Chairman, Committee on Rules, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: It is my understanding that the House Rules Committee will be considering a rule for S. 1696, the Montana National Forest Management Act.

Given the importance of this legislation to my State, I respectfully ask that you and your committee carefully consider the version of S. 1696 that passed the Senate and the House Agriculture Committee. I support this legislation and believe its passage would be in the best interest of Montana and the entire nation. Particularly when it comes to the areas of release language and water rights, I believe this version of S. 1696 is by far preferable to that reported by the House Interior Committee.

However, I also want to make it clear that the agreement between Senator Burns and myself did not involve either of Montana's Congressmen. From the beginning of our agreement, Senator Burns and I recognized that both Congressmen Williams and Marlenee were free to propose changes to the Senate bill. As it turned out, they both worked to change the Senate bill as it made its way through the House Interior Committee. That is clearly their prerogative.

As a former member of the House, I have great esteem for the independence and judgment of your institution. For this reason, I recognize and respect the House's right to work its own will on S. 1696. Whatever the final decision of your committee and the full House is, I will work in good faith to fairly resolve any differences between the House- and Senate-passed bills.

Thank you for your consideration. I appreciate the time and attention you have devoted to this important matter for Montana.

With best personal regards, I am

Sincerely,

MAX BAUCUS.

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

□ 1420

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of the rule for S. 1696. This is a fair rule that gives both sides of the Montana wilderness issue the opportunity to present their proposals to address the controversy over the management of 6 million acres of national forest roadless lands in Montana.

The rule makes the House Interior Committee version of S. 1696 the vehicle for floor action. This is appropriate. The House Interior vehicle represents years of work on the part of the committee. Furthermore, the Interior Committee has the lead and has primary jurisdiction to designate national forest lands as wilderness, particularly in the West. We have worked closely with Representative WILLIAMS to achieve the vehicle that the Interior Committee adopted.

It is also appropriate in this instance that only two amendments be offered and that these both be substitutes. There are those, such as my friend, Representative KOSTMAYER, who want more Montana national forest land placed in protected status. Others, such as Representative MARLENEE, want the Senate-passed bill with much less wilderness, no Federal reserved water right and roadless lands released without judicial review. This rule would allow each side to offer their package of what they believe the Montana wilderness bill should look like. At the same time, it prevents endless amendments on boundaries and single rifle shot options that would kill the process. This rule provides deliberate consideration of this issue and avoids confusing and drawn out amendments more intended to frustrate the process than to resolve the Montana wilderness issue. And at this juncture and late date in the session, this is imperative if we are to carry out the will of the House.

I urge my colleagues to support the rule and help us get on with the process of resolving a contentious issue that has divided Montanans for 10 years.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time.

Mr. Speaker, I rise only to thank the Rules Committee for agreeing to give this bill a rule at this late hour in this congressional session, and also thank them for complying with the request that was made by both members of the Montana delegation, that the primary players in this legislation have a full and open opportunity to offer the substitutes which we all requested. So I am very grateful to the Rules Committee and I thank them for this opportunity.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Montana [Mr. MARLENEE], the very able author of the one of the important substitutes in this bill.

Mr. MARLENEE. Mr. Speaker, I thank my colleague, the gentleman from California, for yielding me this time.

I wish to extend my thanks to the Rules Committee for making in order my particular substitute to the Montana wilderness bill; however, it is not my substitute, but it is, as a matter of fact, a compromise crafted by many Montanans, by the two Members from the other body who have hammered out an agreement and would have liked to have seen that agreement move forward in this body as the vehicle to eventually be signed by the President. As a matter of fact, it may be the only opportunity that this body has to complete a Montana wilderness bill in this particular session of Congress.

I would have hoped that we could have come to an agreement, that we could have put this Senate compromise into the House, passed it expeditiously, at which point the President would have signed it and we would have ended the conflict. We would have ended the controversy. We would have allowed for professional management to continue in Montana.

I do not know if that is possible at this particular juncture with the kind of rule we have.

I would hope that we could pass the Senate compromise, which will be my amendment. If not, the prospect that we face is to go to the Senate for a conference committee and then return after hammering out the many differences between the House version and the Senate version.

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

Mr. MARLENEE. I am happy to yield to the gentleman from Missouri, the chairman of the Subcommittee on Forests, Family Farms, and Energy, of the Committee on Agriculture.

Mr. VOLKMER. Mr. Speaker, may I ask, is the gentleman's substitute the same or identical to the bill that was reported out of our subcommittee and of the full Committee on Agriculture?

Mr. MARLENEE. It is exactly the same.

Mr. VOLKMER. As the gentleman knows, we worked with both the gentleman from Montana [Mr. MARLENEE] and the other gentleman from Montana [Mr. WILLIAMS] to keep this process moving, and we are happy that we are here today.

I have some disagreement with the Interior Committee as to the release language which is in the jurisdiction of the Agriculture Committee, as well as the Interior Committee.

Hopefully if their version does prevail today, that they will be able to work that out with the two Senators from Montana and we can complete the action on this wilderness bill, which I know all the people from Montana have worked very hard on for these many years.

Mr. MARLENEE. Reclaiming my time, Mr. Speaker, I thank the gentleman, my chairman of the Forests Subcommittee.

I want to thank the chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA] for helping us to expeditiously move the process forward, as I had promised that I would do.

So now we are at the fork in the road, the juncture, if you will, as to which one of these will pass, go to conference and has the potential of being completed in time before this session ends.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Speaker, I thank the gentleman from Tennessee for yielding this time to me.

Mr. Speaker, I regret that we are considering this bill today under a rule which will provide for the consideration only of two substitutes.

I agree with the argument that we should not be considering a multitude of rifle shot amendments to make adjustments to individual boundary lines in individual areas; but unfortunately, this rule will prevent consideration of some very fundamental issues which should be before the House as we deal with this bill.

Traditionally, wilderness bills have been land allocation bills. That is what we see before us today, a bill which protects a certain amount of varied wilderness, sets aside additional areas for study and which releases areas beyond that.

Unfortunately, our understanding of how forests and natural systems function today has far outstripped the means by which we make these decisions. I am sorry that we will not have the opportunity today to consider legislation which takes more of an ecosystem approach and looks at these forests and these natural areas from the perspective of what is necessary for us to do to sustain their productivity and to sustain their existence over some period of time.

Regrettably, we have no guarantee in passing this wilderness bill or any of the options before us that we are achieving that most fundamental purpose of ensuring that the productivity of these forests and the related lands will be perpetuated for the benefit of not just our generation, but many generations to come.

We need to be looking at this issue, not from the standpoint of the traditional means of allocating lands in a different category, but are putting into place an independent scientific study of what is necessary to sustain these natural systems, to preserve them from the standpoint of their productivity and their benefits. That is a fundamental issue which needs to be debated in this legislation today.

I also regret that we will not have the opportunity to consider today another fundamental issue relating to the forests of Montana, and that is the issue of low-cost timber sales. When lands are released under this legislation, they will go into the timber base for sale of timber under the various timber plans.

Unfortunately, this will not be a good thing for the taxpayers of our country. There are 10 national forests in Montana. According to the Wilderness Society, all of them lost money this last year on timber sales, a total of some $27 million.

The Forest Service itself admits that 9 out of the 10 forests, based on their calculations, are losing money somewhere in the vicinity of $15 million.

We should not be proceeding with timber sales from these forests which are such big money losers for the taxpayers of the United States.

Just to take one example, the Bitter Root National Forest Treasury receipts, $215,000.

Treasury cost, $3.7 million, for a net loss to the taxpayers of the United States of $3.5 million.

□ 1430

Mr. Speaker, those are figures according to the Wilderness Society. The Forest Service would show losses somewhat less than that, but losses nonethesame.

We should not be maintaining the policy of selling this timber below cost; that is an issue that should be coming before the House today. I regret that we will not have the chance to offer that issue.

Mr. Speaker, these issues will not go away. They will be addressed again on this floor at a future date. I am sorry they will not be addressed today.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 590 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 1696.

□ 1431

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 1696) to designate certain national forest lands in the State of Montana as wilderness, to release other national forest lands in the State of Montana for multiple use management, and for other purposes, with Mr. DONNELLY in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the Senate bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 22½ minutes, the gentleman from Montana [Mr. MARLENEE] will be recognized for 22½ minutes, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 7½ minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 7½ minutes.

PARLIAMENTARY INQUIRIES

Mr. MARLENEE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MARLENEE. Would the chairman outline for me the procedure under which the amendments will come before the full House?

The CHAIRMAN. The Chair will read the statement at the end of general debate, but, if the gentleman from Montana [Mr. MARLENEE] asks unanimous consent to have it read at this time, the Chair would be willing to read it at this point in the RECORD.

Mr. MARLENEE. A further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MARLENEE. How much time are we allotted on this side?

The CHAIRMAN. The gentleman from Montana will be recognized for 22½ minutes.

Mr. MARLENEE. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, S. 1696, as reported by the Committee on Interior and Insular Affairs, addresses the controversy over 6 million acres of national forest roadless lands in Montana. The committee's bill is an important conservation measure that deserves the support of the House.

S. 1696 as passed by the Senate did not adequately protect the wilderness resources that exist in the national forests in the State of Montana. The Senate-passed measure left out key areas that would be valuable additions to the National Wilderness Preservation System. The Senate bill failed to give designated wilderness a reserved water right; a difficult issue, but one that must be satisfactorily resolved. The Senate-passed measure also had release language that restricts the public's ability to challenge Forest Service actions in court and allowed commercial timber harvesting and mining in national recreation areas. These flawed provisions made the Senate version of the bill unacceptable. As a result, the Interior Committee has amended S. 1696 to correct these problems and it is this amended version that is before us today.

Most aspects of the Montana wilderness issue are of national importance and transcend that individual State. I have had thousands of Minnesota constituents, as well as others from around the country write, call or otherwise contact me to express their concerns with the Senate-passed Montana measure. Rarely has this type of response and interest occurred with regards to wilderness measures. Many are so concerned that they want us to drop the entire effort and start out next year with a much broader wilderness measure.

Over this past summer, Congressman WILLIAMS, myself, and others worked on an appropriate response to address many concerns raised about the Montana wilderness issue—concerns that I voiced and concerns voiced by the people of Montana. The bill we bring before you today reflects these concerns and is the direct result of Congressman WILLIAMS' help and support. The boundary changes and other provisions in the bill the Interior Committee adopted were offered by Mr. WILLIAMS. Except on the question of water rights and release language, he and I are in agreement on all the provisions of the amended bill.

The Interior Committee version of S. 1696 improves the Senate-passed bill in several significant ways. It places at least 300,000 more acres into protected status; guarantees a reserved water right for wilderness consistent with past wilderness bills that the House has passed and that have been enacted into law; it uses an updated version of the standard release language that we have used in past wilderness bills; and leaves wilderness study areas in protected status until Congress acts. As a result, this legislation would now designate 1.4 million acres of wilderness, 150,000 acres of special management areas and 262,000 acres of new wilderness study areas added to the 700,000 acres already in wilderness study status. This bill is appropriately stronger in environmental protection than the bill that passed both Houses in the 100th Congress and was vetoed by President Reagan. We know more today and are appropriately acting on such data. This is a sound bill and a good work product.

In all the controversy surrounding Montana wilderness, let's not forget why we must protect Montana's national forest wildlands. These lands include not only some of the Nation's most spectacular scenery, but also an irreplaceable wildlife and fish resource, including threatened and endangered species such as the wolf and grizzly bear. The wild places of Montana are truly a resource of national importance and a heritage that Montanans are justly proud to preserve.

It is important that we resolve the Montana roadless issue in this session of Congress. We already have spent 10 years trying to find a resolution. In 1988, Congress was able to pass a Montana wilderness bill, only to have it vetoed by President Reagan. The first and only National Forest Service wilderness measure vetoed in 20 years since the enactment of the basic wilderness law. As the years go by, 6 million acres of unprotected national forest roadless lands are becoming increasingly vulnerable to development. Further delay could lead to specific rifle shot actions—at the very least, action that results in road construction, mining, and timber harvesting in the heart of Montana's most scenic wildlands—at the worst, an unprecedented action that the Forest Service may decide to just protect its own recommendations in the forest plans and the congressionally designated wilderness study areas and go ahead on its own and release 4.8 million acres to general forest management. It has the legal authority to do this. Thus, it would be irresponsible for us to stop the legislative process and leave these lands threatened. The only way to truly protect wilderness is to act and to pass wilderness bills. Abandoning the legislative process at this point would seriously harm public policy—not help protect wilderness.

I urge my colleagues to support this bill which is a significant addition to the National Wilderness Preservation System and protects some of the most spectacular wildlands in America.

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

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

Mr. Chairman, we are about to consider a piece of legislation that will impact Montana's future for years to come. It will impact, in effect, our ability to provide the funding for the infrastructure of the State of Montana. The Williams-Vento bill, the way it is drawn, indeed does have many errors. It has some real abuses to providing funding for the infrastructure and should be rejected in favor of a piece of legislation that was hammered out, by the two Members of the other body. We call it the Burns-Baucus compromise. It was drafted with the help of many interest groups in the State of Montana. The Vento-Williams bill, if enacted, will preclude the collection of $1 billion in taxes over the life of a potential oil field on the Rocky Mountain front in Montana; $500 million, of those taxes over the 10-year life of the field would go to support our schools and universities in the State of Montana. That in itself is reason enough to reject the Vento-Williams bill.

In addition to that, Mr. Chairman, we have private property that has been included, if I may have the attention of the chairman of the subcommittee, the gentleman from Montana [Mr. VENTO], in that wilderness private land. I have here a letter with the heading of the Montana State Senate written to me by Lorents Grosfield, and I submit that letter for the RECORD.

MONTANA STATE SENATE,
*Helena, MT, October 2, 1992.*

Representative RON MARLENEE,
*Rayburn House Office Building, Washington, DC.*

DEAR REPRESENTATIVE MARLENEE: I am writing regarding the Minnesota-Williams version of the Montana Wilderness Bill that apparently is likely to pass the House today. I write for three primary reasons.

First and foremost, the release language is not adequate in this version, and express federal water rights language is inappropriate. I am confident that federal water rights needs will be adequately addressed in the Montana Reserved Water Rights Compact Commission process. I serve as a member of that Commission.

Second, the Crazy Mountains additions are also inappropriate. The designated Crazy Mountains Wilderness area contains private lands, some roads, some recently logged-off areas, and indeed a hunting lodge on one of the private sections. This addition was obviously hastily drawn and should not be designated wilderness. Perhaps the land consolidation study is appropriate, though I don't sense local support for it—instead of designating a wilderness area here, that area too should be the subject of land consolidation study, as well as wilderness suitability study. To my knowledge, there has never been a wilderness suitability study of the Crazies. (I own four sections within the wilderness study area in this bill.)

Third, there is no local support in either of the affected counties that I have heard of at this point. In fact, local people are quite upset that this can happen so quickly to our area, with very little chance for input, and they are opposed to it. Although the Montana Wilderness Association is currently sponsoring a pro-wilderness ad on local radio, neither they nor anyone else has asked the local area for their input on this issue. I have yet to hear the first local person express support for what is happening here.

I urge you to stand firm in your opposition to this bill.

Sincerely,

LORENTS GROSFIELD.

□ 1440

This is from Senator Lorents Grosfield of the Big Timber area.

Mr. Chairman, the Williams-Vento substitute to this bill should be defeated and the Senate compromise passed so that we may proceed with the business of professional management of our public lands in Montana.

Mr. VENTO. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. MILLER], the distinguished chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, first of all, I want to commend all of the members of the Committee on Interior and Insular Affairs who have spent many hours in hearings, debate, and negotiations over this legislation. This has not been an easy piece of legislation. But like most of the legislation that deals with the issues surrounding the designation of wilderness, it has been difficult, it has been troublesome, it has been painful, and there has had to be give and take on all sides.

Mr. Chairman, for many years the Interior Committee has been bringing before the House wilderness bills much like the Montana wilderness bill we consider today. By that I mean a bill that meets our obligation to protect the remants of the magnificent wilderness that is at the heart of our natural heritage, while fairly and responsibly recognizing the legitimate interests and concerns of local residents.

For more than a decade, it has been the House and the House Interior Committee that has set the standard for achieving that kind of balance. When all the dust of competing proposals and amendments has settled, the record will show that the wilderness designations and the management provisions crafted by the House and the Interior Committee have been the basis for laws signed by both Republican and Democratic Presidents.

Today, you will hear this bill attacked from the left and from the right. You will hear that the bill locks up too many resources, that it does not treat lands not designated as wilderness in the same way as in the past and that it violates Montana's rights to control its water. But as the gentleman from Montana [Mr. WILLIAMS] will tell you, we have worked long and hard with Montanans to draw the boundaries and select the wilderness areas that meet their concerns. At the same time, the release and water rights language represent positions that the House has taken time and time again.

From the other side, you will hear that the Interior Committee bill is inadequate, even that it is a sellout of Montana's remaining wildlands. I sympathize with those who have watched our forests mismanaged, our old growth cut down and our wilderness roaded and who warn us that we are approaching a real crisis.

But to characterize the Interior Committee bill as anything less than a strong statement for protection of Montana wilderness is just plain wrong. We have added more than 300,000 acres to the Senate bill, removed the ability to cut timber and build roads in more than 150,000 acres of special management areas, removed the Senate's 5-year sunset on wilderness study areas, added standard House water rights language and, perhaps most importantly, eliminated the Senate's unacceptable release language that would have placed more than 3 million acres of lands not designated as wilderness in jeopardy of inappropriate development by restricting judicial review of Forest Service decisions.

Despite all the criticism, Mr. Chairman, I know that any honest and dispassionate analysis would conclude that this bill is cut from the same cloth as Forest Service wilderness bills—now law—for Washington and Oregon, for California, for Arizona and New Mexico, for Utah, Nevada, Colorado, and Wyoming and many other States. They are all bills that sprung from this House and they are all laws of which this Congress and this Nation are justifiably proud.

The House has a responsibility to exercise its own considered judgment with regard to which areas should be designated wilderness, how the Federal rights to protect wilderness water resources should be exercised and how lands not designated should be managed.

I am confident that the Interior Committee has done so in a responsible and reasonable manner under extremely difficult circumstances and I urge my colleagues to support it.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, this map I think gives us an idea of what is up with respect to what I call this Federal Grab Act of 1992, at this time directed toward our friends from the State of Montana.

Mr. Chairman, one can see from this map the blue is current ownership of Federal lands in America. The Federal Government owns most of the land in the Western States of America. In my State of California they own about half of it. In the State of Montana, the percentage is roughly one-third in Federal ownership today.

Mr. Chairman, I therefore have a question for the gentleman from Minnesota [Mr. VENTO], and I mean this sincerely. How much is enough? When will this preservationist movement moving across this country to take into public ownership land after land, when is enough? How much?

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

Mr. DANNEMEYER. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the measure before us does not acquire any new Federal land. We are designating and classifying how existing Federal land is used. We have 6 million acres of national lands in this bill. We are going to release to general use about 3.5 million acres of national forest land and retain in conservation designation about 2½ million acres.

Mr. DANNEMEYER. Mr. Chairman, reclaiming my time, I will tell Members who I took the time to come down on the floor and debate this issue. I am from California, I am not from Montana. But I have watched over the years the methodology of what is taking place in this country through the good auspices of the subcommittee the gentleman from Minnesota [Mr. VENTO] chairs, and the committee chaired by my good friend from California [Mr. MILLER].

Mr. Chairman, I mean nothing personal toward either of the gentlemen, because they are the spear carriers of a movement called preservationism in America.

□ 1450

Dixy Lee Ray, in her book "Trashing the Planet," has written eloquently about this movement.

I am not necessarily including the gentlemen as being willing participants in this movement. I think they are being carried along.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, I want to admit to being a willing carrier of the spears of preserving and conserving our natural resources. I am pleased that the gentleman would have a proper response here that I am a willing carrier of these environmental spears.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

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

Mr. MILLER of California. Mr. Chairman, I, too, would like to plead guilty.

Mr. DANNEMEYER. Mr. Chairman, the gentleman pleads guilty to that as well.

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

Mr. DANNEMEYER. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I could say that I probably have observed that my colleague, my good friend from Minnesota is a spear carrier for that particular movement, but he has got the spear aimed at the heart of the State of Montana and he does not have to live with the unemployment and the displacement of the communities from the spotted owl or from the creation of wilderness. That is the problem with the bill today.

Mr. DANNEMEYER. Let me just say, this is what Dixy Lee ray wrote in her book "Trashing the Planet." She says, in part:

> The great majority of those who make up the membership of the Audubon Society, Sierra Club, National Wildlife Federation, Wilderness Society, Nature Conservancy, and countless other groups are fine, decent citizens. They are honest, honorable supporters of a good, clean environment and responsible human actions. However, the leaders of some of their organizations, such as the Natural Resources Defense Council, Friends of the Earth, Earth First, Greenpeace, Government Accountability Project, Institute for Policy Studies, and many others, are determinedly leftist, radical, and dedicated to blocking industrial progress and unraveling industrial society.

Some of these people, and I quote from page 165 of Dixy Lee Ray's book, by the way, she is a member of the Democrat Party, former Governor of the State of Washington, former Chairman of the Nuclear Regulatory Commission:

> They also tend to believe that nature is sacred and that technology is a sacrilege. Some preservationists appear to be in favor of taking mankind back to pantheism or animism.

One of their prophets, Thomas Lovejoy, tropical biologist and Assistant Secretary of the Smithsonian Institution, says:

> The planet is about to break out with fever, indeed it may already have, and we human beings are the disease. We should be at war with ourselves and our lifestyles.

Paul Ehrlich, a Stanford University biologist:

> We have already had too much economic growth in the United States. Economic growth in rich countries like ours is the disease, not the cure.

Kenneth Boulding, originator of the "Spaceship Earth" concept:

> The right to have children should be a marketable commodity, bought and traded by individuals but absolutely limited by the State.

And just one more, David Brower, Friends of the Earth:

> Child bearing should be a punishable crime against society, unless the parents hold a government license. All potential parents should be required to use contraceptive chemicals, the government issuing antidotes to citizens chosen for child bearing.

Nice people. One would think, who is really impressed with this group of zealots that I have described here?

Do not underestimate their political clout in the Congress of the United States, because this movement that I have described, my colleagues, is controlling what this Congress will be doing in terms of energy and environmental policy in the United States today. And that is the sad, tragic result for all of us.

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

Mr. DANNEMEYER. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, is the gentleman inferring that when Whoopi Goldberg, Goldie Hawn, Robert Redford, and that crew of people come up here and tell us what kind of a Montana wilderness bill we should have within the State of Montana, that they are involved in that type of activity?

Mr. DANNEMEYER. Mr. Chairman, the gentleman really knows that the tweaking of the social consciousness of these paragons of virtue, who have tremendous earning power as a result of being leaders in the entertainment industry, has caused some of them to have pangs of conscience whereby they feel a duty to save America from ourselves. And they are being unwittingly used, in my judgment, by people across this land to carry the message of this preservationists movement that sadly for all of us is controlling in the Congress of the United States, because I have witnessed the game.

Each year, without exception, the Committee on Interior and Insular Affairs, led by the gentleman from California [Mr. MILLER] will bring to the floor the designation of a wilderness area on the idea, when the Members come in to vote, well, it is not my State, it is not my congressional district, maybe they will pick on somebody else next time. And so we all have a tendency to say, in this instance, I am going to vote for the preservationists and get a good chit on their side. Maybe they will not pick on my district next Congress or next year. That is the game.

We should understand, Mr. Chairman, that this movement called the preservationists movement has a claimed membership, and this is from the records of the Federal Elections Commission, of some 25 organizations comprising almost 6 million people. And they are not underfunded. They claim that their annual budgets total some $544 million a year.

There is nothing illegal about this. They have the right, in a free country, to organize, to petition the Government. But the power that they have today is so awesome that at a time when we are spending $50 billion a year in a negative trade balance to buy oil from around the world to fund the way we live, this measure, if adopted, is going to lock up 2 to 3 trillion cubic feet of natural gas as part of this wilderness.

Now, will somebody please explain to me the logic of why the Congress is now considering a major energy bill passing through the House, and I am a conferee on that energy bill, whereby we are short of energy, natural gas and oil, and we are going to lock up a resource containing 2 to 3 trillion cubic feet of natural gas?

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

Mr. DANNEMEYER. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, let me just say to those who are listening that in the last 300 years in North America, we have destroyed 95 percent of our forests. We have about 5 percent left.

Mr. DANNEMEYER. Mr. Chairman, reclaiming my time, Dixy Lee Ray, right here in this book, has said that today we have more trees growing in America than we did in Revolutionary Days. That is because of the good stewardship, not all the time, but this good stewardship of the people managing the timber resources of this country.

I think the prudent thing for the House to do is to recognize that this Nation not only has a need for the energy in this wilderness area but we should have a sensitivity and concern for what we are about to do to our friends in the State of Montana.

The sensible thing to do is to vote down this Federal land grab act of 1992.

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

Mr. VENTO. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS], a sponsor of this legislation.

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

I am in support of this legislation. I hope for some improvement in the final negotiated legislation.

No issue, has been more heatedly debated or considered at more length by Montanans than has this issue before the U.S. House of Representatives. This ritual has become a tragic pastime for the congressional delegation and in spite of everyone's agreement that the task must be accomplished we have yet to reach that goal. Such it seems is the fate of these pieces of legislation that become political footballs with more worth to some as political fodder than as solutions to real, difficult problems.

In 1988 President Reagan took the ultimately cynical position and vetoed the Congress' work to resolve this issue. Montana jobs, livelihoods, lifestyles, and economic stability were sacrificed for political gain. Montana has been left to twist in the winds of litigation, uncertainty, and economic loss.

This Montana wilderness bill and the 10 which have unsuccessfully preceded it have been debated, discussed, argued about, fought over, considered, amend-

ed, researched, analyzed, dissected, repaired, and tragically—finally rejected.

This legislation represents a triumph 15 years of consideration and public participation. Not since Statehood have so many Montanans involved themselves in the consideration of an issue before the U.S. Congress.

Twenty or more hearings spanning 13 years, 120 hours of direct testimony, 3 consecutive days of hearings in Montana with 21½ hours of testimony and 7 additional days of hearings, also held in our state.

No one has been left out of this important process of deciding the use and management of Montana's last great wild lands.

The process, frankly, has taken too long, and was more divisive and partisan than was good for our State.

But we are, hopefully, almost finished. Only passage through this House, compromise with the Senate and the Presidential signature remains.

Let me make this point clear—this is a jobs bill as much as it is a wilderness bill. Organized timber workers in my district support our efforts here today because they are intimately aware of what inaction has done to them and their fellow workers. Some people involved in this debate seek only political advantage, some seek to only secure short term profit, some seek to only express aloof philosophical concepts. The timber workers are in it for one reason, long term protection of their jobs and stability for their communities. I believe we should listen to them.

I have during the past several months appreciated very much the efforts of my colleagues who worked with us to bring forward this legislation. I want to make this point very clear: The areas and boundaries in this legislation are the ones I supported. For that reason I offered the substitute in full committee.

Virtually all Montanans who were involved in reviewing the Senate's work recognized the need for some changes. I want everyone to understand that Montana's two Senators have endorsed changes, such as, adjustments for folks in the Beaverhead along the West Big Hole, adjustments for the Maverick Mountain Ski hill, for mining companies and mining jobs in Camas, and the addition of wilderness in the North Big Hole, and there are others.

I brought changes to the Committee from many Montanans who opposed the Senate legislation. Montanans have worked hard in looking closely at the Senate bill and making reasonable recommendations for changes. I have spent most of this year meeting with Montanans: with industry folks, conservationists, sportsmen, recreationists—including motorized recreationists—people concerned about water rights—a whole year. For the most part the Interior passed bill reflects the wishes of Montanans.

There is something for all of them here. There are areas opened for motorized recreation that were closed by the Senate bill, in places like Lionhead, the Sapphires, and the West Big Hole. There are mining proposals that the Senate would preempt in places like Axolotl Lakes and Camas. And there are areas added to wilderness that Montana hunters and anglers identified as critical to maintaining Montana's hunting and fishing opportunities. These additions for our wildlife and our big game herds are made in places like the Crazy Mountains, Trout Creek, Cowboy's Heaven, the Rocky Mountain Front, and the Yaak. One can not hunt if there is nothing to shoot at and we can't fish if streams are polluted and the spawning grounds ruined. These additions assure Montanans will continue to be good stewards of the last best place.

Many of the provisions in this legislation come directly from Montanans. In the Northwest miners and conservationists sat down and compromised the Scotchman Peak wilderness. A young handicapped woman's observations at a public meeting are in this bill in the form of the Ross Creek Cedars National Recreation Area. There is special considerations for help given to miners in Virginia City and loggers in the Gallatin.

There are the clear marks of the folks along the Rocky Mountain Front in this legislation and the signs of careful consideration of the timber base all across the State. It is hard to estimate the number of Montanans who took time to place their imprint on this bill and it would be even harder to count the countless hours of meeting, discussion and compromising that has taken place these past 13 years. If every issue we considered in the Congress received the attention this bill has then I believe we would make far fewer mistakes.

This bill is a fine tuned work of compromise and it deserves both passage here today and the pride of all the folks across Montana who worked to make it possible.

As I observed earlier there will be many things about this legislation asserted here today. Here are a few of the facts about this legislation.

First, what this legislation accomplishes:

This legislation designates 1.44 million acres of wilderness in the State of Montana. This is about 200,000 more acres than were passed by the Senate. Half this acreage is additions to existing wilderness areas.

This legislation creates 150,000 acres of new National Recreation Areas, designated for the preservation of all types of outdoor recreation, particularly motorized.

This legislation sets aside 988,000 acres of land that require particular attention in my State before the areas can receive proper management and be released the regular forest plans. These areas have problems with longstanding Indian treaty rights, extensive checkerboard ownership problems, or contentious access and recreation issues.

This legislation releases from court challenge 3.8 million acres of Federal land that will be moved into the completed Montana forest plans and managed for multiple-use purposes, including more than 300 million board feet of timber planned for harvest in the next decade.

This legislation promotes mining in Montana by recognizing 100 percent of all patented mining claims in Montana, stopping RARE II appeals on mining operations, and freeing up active mining claims in a BLM wilderness study area and Senate proposed wilderness which otherwise would be precluded from development.

This legislation promotes timber harvest by releasing for potential harvest 61 times more timber than it restricts from harvest by wilderness designation.

This legislation promotes recreation by designating areas solely for development of wild land recreational opportunities. This legislation is also carefully drafted not to interfere with ongoing motorized recreation. For example, not one inch of 2,500 miles of groomed snowmobile trails in Montana is restricted by this legislation, and the Montana Snowmobile Association was granted protection of 100 percent of the areas it believed were important.

This legislation is critical to Montana's wildlife populations because of its protection of roadless lands habitats, critical watersheds, and calving grounds. This legislation completes the Bob Marshall designations along the Rocky Mountain Front and thereby assures the protection of this Nation's largest herds of big horn sheep and mountain goats, and this Nation's second largest elk herd. This area along the eastern front of the divide represents the largest game recovery effort in the lower 48 States, and this bill assures that the Federal Government will continue to contribute to this effort.

Second, what this legislation does not do:

This legislation does not remove timber suitable for harvest from the federal inventory. The Forest Service plans show that the wilderness considerations in this bill remove 2 percent of the suitable timber base identified by the Montana Forest Plans.

This bill ends the uncertainty on much of the land that is now subject to unnecessary appeal and litigation. Because of congressional failure to pass a mountain wilderness bill, the Forest Service is experiencing planning chaos—in effect, the forests of Montana are virtually under the jurisdiction of

the courts which have a 100-percent loss record before the ninth circuit court.

This bill does not stop current mining operations in Montana. In fact, the Montana mining industry worked closely with the delegation on this bill, and the Montana Mining Association has never produced one mine or proposed operation impacted by this legislation. Just the opposite, some mining operations will not be able to go forward without this bill.

This legislation does not remove motorized recreational opportunities. In fact, the legislation recognizes hundreds of thousands of acres of national recreation areas that are set aside for all types of uses.

I want to draw particular attention to a proposal which I have incorporated in this legislation: an Economics and Ecosystem Study Commission. This may be the most farsighted and important part of this legislation. This bill presents through this commission a way that citizens of the northern Rockies can ask the hard economic questions about the future, and ask them before we are faced with the "either or" decisions that have come to face our neighbors in the States of Oregon and Washington to our West. This review will ask the questions of natural resource sustainability that assure jobs in our resources industries far into the future, and will provide an independent look at how we can maintain our world class wildlife populations.

This review and analysis can hopefully serve as a way to move toward assuring small business opportunity in value added wood product manufacturing and wild lands recreational uses. Montanans have the rare opportunity, lost to many in this country, of having a sustainable resource economy, and diversity of wild area and the animals who call those lands home. This study is aimed at assuring good jobs and clean places to hunt and fish. This type of study has been suggested by both timber workers and wildlife biologists and I believe is critical to mapping the way to a future of long-term jobs and environmental protection.

Finally, and critically this legislation contains the Gallatin land exchanges. That is a goal that has been pursued by the public since 1925. Private land owners and conservation organizations and the Forest Service joined in this negotiation and reached an agreement and the result is in this bill: one of the most significant land consolidations ever accomplished in the United States.

The House/Interior bill deserves to be passed and I urge my colleagues to join me in moving toward an acceptable resolution of our long-standing problems.

□ 1500

The CHAIRMAN. The Chair will announce that each side has 7 minutes remaining.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, let me just say in reference to what we heard a moment ago, so that people here and people who may be listening across the country, that was the industry talking: that was the timber industry, that was the gas industry, that was the coal industry, that was the oil industry.

Over the last 300 years in North America we have cut down 95 percent of our forests. We have 5 percent left. We have cut down far more than the Brazilians. Of the 5 percent left, the proposal which I offer today will save only 1 percent.

America's last original forests are being logged at the rate of 1 million acres per year, or three times the annual harvest at the peak of the postwar building boom, and much faster than the rate of cutting in Brazil. Original forests in the United States are still being clearcut at the rate of three football fields every minute, 3 square miles every week. We are destroying our national forests.

In the State of Montana alone last year, because of below-cost timber sales, the taxpayers of this country lost $40 million, because our tax dollars built the roads free of charge for the timber companies to enter those forests and cut down the timber.

What we are talking about on the floor of the House today in an effort to save a little bit of America's wilderness which has not yet been destroyed.

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

Mr. Chairman, my colleague, the gentleman from Montana [Mr. WILLIAMS], is correct. He is correct. There are those that would use this legislation for political purposes. Of course there are. They include the Sierra Club, the League of Conservation Voters, Earth First, Friends of the Animals; let's see, who else, the Audubon Society; even Liz Clairborne, who my friend knows well.

I shall offer today the Senate bill as a substitute because of Montana's outrage to the Vento-Williams bill, a bill that was aided and abetted by those wealthy out-of-State interests. As the Members can see, the support here was very visible for that Vento-Williams substitute. We have 2,600 people protesting in the streets of Montana when the Vento-Williams bill passed the committee. Yes, it passed all right, for wealthy out-of-State interests. The Williams-Vento bill was born out of a shell game, and its authors know full well that the effort to expand wilderness and create a Federal reserve water right is doomed to failure.

The Vento-Williams bill is doomed to failure because the committee has, one, capitulated to out-of-State interests, and it will not be accepted in the State of Montana. My colleague, Representative WILLIAMS, whom I have a good relationship with, and whom I know intimately well, after 2 long years and 14 in the House, has capitulated to the wishes of the majority side, led by the chairman of the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs. It is Chairman VENTO whose goal has been to expand every wilderness bill that has come before that committee.

□ 1520

Yes, the Hollywood celebrities are moving it in their direction.

Some people will contend that this bill is not significantly different from the Senate-passed version. They maintain the Vento-Williams bill simply corrects technical details. But the differences are indeed extensive and fundamental.

The bill establishes an unquantified Federal reserve water right for wilderness which the legal community advises me that they can argue about for years to come, and Montana will probably have forfeited its rights to adjudicate the water within its water courts. But some are willing to gamble. They are willing to gamble with Montana water rights, just like this Congress gambled with the National Endowment for the Arts when the good upstanding people of the community challenged obscenity in court and lost, and had spent their money in doing so.

Some may ask what are the answers to these questions. Will there be more timber mills, timber for mills in Montana, and the answer is no. Will there be more roads and trails open to Montana recreationists? The answer is no. Will forest plans and timber sales be appealed less frequently? The answer is no.

The painful answer is that is bill contains no real release of nonwilderness lands to multiple use management by the professionals of the Forest Service. It does not resolve the conflict with the appeals. It does not sunset the wilderness areas.

Today another hollow shell game to surrender the future of Montana to interests alien to Montana is being played out before our very eyes. These advocates are embodied and represented by those who do not want to consider the Senate version, S. 1696. They do not want to consider that because they know that bill could pass this House in a heartbeat, then be signed by the President, and the conflict would be over.

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

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO], a member of the subcommittee and one who has worked closely on land issues with me.

Mr. DEFAZIO. Mr. Chairman, I am very familiar with the conflict over natural resources in the Western United States. I represent the most public timber-dependent district in the Union. And the gentleman from Montana [Mr. MARLENEE] was right. There has been some heavy-duty lobbying for this legislation. The stars, yes, they came to my office, the national environmental groups, they came to my office and the industry and labor came to my office.

This bill before us today is not the bill of the national environmentalist groups or the stars, nor is it the bill demanded by the timber industry. It is a fair balance. It is a tough decision. When we are dealing with public lands, when we are dealing with the disposition of those lands, protecting our precious natural resources, defining truly what is a sustainable resource, so we will have forests today and jobs today and forests tomorrow and jobs tomorrow, and by God, PAT WILLIAMS of Montana did a masterful job doing that, and I will not see anybody bend this to their petty political ends like I heard the previous gentleman saying is being done. It is not being done by PAT WILLIAMS.

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

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I thank my colleague for yielding the time, and I would like to ask the gentleman from Montana [Mr. WILLIAMS], a question on my time.

The gentleman made reference in his comments about the Ninth Circuit Court of Appeals being involved in timber issues relating to the State of Montana. My question is: Who created the law that caused this litigation to find its way to the ninth circuit, not the person, but what entity created the law?

Mr. WILLIAMS. If the gentleman will yield, the Congress of the United States has created a good many laws. The reason that the laws are being challenged is because of the inability of the Congress to pass a Montana wilderness bill. And when we did pass it, President Reagan vetoed it. That has created such uncertainty on the land management in Montana that the courts are determining or planning the process for us.

Mr. DANNEMEYER. I thank the gentleman for his response.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS] for further debate.

Mr. WILLIAMS. Mr. Chairman, I want to tell my colleagues that no one in the Montana delegation, including myself, is entirely satisfied with the water language that is in the bill before us. However, I do want my colleagues to know that I offered amendments which were accepted that accomplished two things with regard to the water language in the bill.

First, we have assured in the bill before us that adjudicated Montana water rights are senior to any Federal rights in Montana with regard to water. Second, we have assured, because of the language in the bill before us, that all litigation against Montana's water rights must be brought to the State of Montana water courts.

Even with those two rock-ribbed, very good assurances, the entire delegation from Montana, Congressman MARLENEE, Senator BURNS and Senator BAUCUS, and myself are still hopeful that in negotiations between the House and the Senate we can improve this language even further to assure absolute protection well into the future for Montana water rights.

Mr. MARLENEE. Mr. Speaker, I yield myself the remaining time to point out to my colleague that this is indeed a shell game, that the chairman of the Public Lands Subcommittee has stated unequivocally, as quoted from the newspapers, that he will veto a Montana wilderness bill, and he was speaking, of course, with reference to the Baucus-Burns compromise.

That being the case, if we go to a conference committee, and we attain some change and moderation from the expansion of the Federal reserve water rights, and bring it back to the floor of the House, I presume the chairman of the Public Lands Subcommittee, Mr. VENTO, will reject it and this body will not pass a Montana wilderness bill.

So I see this exercise as futile, an exercise in futility, and a shell game to achieve the ends, the well-meaning ends I might add, of the chairman of the Public Lands Subcommittee.

Mr. VENTO. Mr. Chairman, I yield myself the balance of whatever time I have, which I believe is a minute, to respond to my friend from Montana who serves as the ranking member on my subcommittee by saying that we have successfully dealt with water language in Nevada and California, and virtually on all of the other recently passed wilderness bill. I assure him of my good faith in working out a final solution. We are working very hard right now on Colorado water language. So I would hope the gentleman would not presume that I would not presume that I would be so unyielding as not to continue to work on this. I can tell him that whatever the disposition is here, it is my goal, and I think his and the gentleman from Montana, to resolve this issue. So I give him my pledge of good faith to work on this and to resolve this issue. Notwithstanding many other comments which are extraneous, some people ought to get an A for reading Dixie Lee Ray's book.

□ 1520

The fact of the matter is they do not read minds very well, Mr. Chairman.

I hope we can return to the issue before us in terms of the designations here and the differences that we have to resolve this issue and send this bill to the President this year.

Mr. SMITH of Oregon. Mr. Chairman, I rise in opposition to the amendment from the gentleman from Pennsylvania [Mr. KOSTMAYER].

This amendment establishes a committee to provide a plan for protecting the so-called Northern Rockies ecosystem in five States. It has nothing to do with a Montana wilderness bill.

I can't speak for the other States affected by this amendment, but I can tell you that the people of the State of Oregon don't want any part of it. We finished the Oregon wilderness bill in 1984, which established 2.2 million acres of wilderness. That issue is closed.

But now we have someone who represents a district 3,000 miles from Oregon trying to reopen this debate, and frankly we resent it.

This amendment is based on flawed science—it ignores the fact that we have 3 billion board feet of dead and dying timber in eastern Oregon because of insects and disease problems. In some cases 75 percent of these national forests are dead.

The Forest Service will need to salvage these dead trees or these insects will continue to spread to other forests throughout the Rockies. In fact, Idaho is already experiencing severe forest health problems. Insects like the spruce budworm will love this amendment because it will allow them a free run to devastate our forests.

Among other things, this amendment will prohibit salvage logging in some of these areas while this so-called ecosystem study is underway. It will tie the hands of our land management agencies to the point that all they will be able to do is watch more and more trees die.

So by offering this amendment the gentleman from Pennsylvania is actually destroying the same national forests he is trying to protect.

Aside from that, this amendment will also cost jobs. Salvage logging in the area in eastern Oregon that Mr. KOSTMAYER wants to lock up translates into 8,000 jobs. But it doesn't stop there.

This amendment is just a condensed version of Mr. KOSTMAYER's Northern Rockies Protection Act, which would lock up 14 million acres of Forest Service land and envisions a new national park in my district in what is now the Hells Canyon National Recreation Area.

The gentleman did not check with me about creating a Hells Canyon National Park, but if he would have I would have told him it has no local support whatsoever.

And it's easy to see why—it will cost 2 counties in my district $420,000 in funds for schools that they now receive from the Federal Government from forest receipts. This doesn't mean much until you realize that half of the operating budget from Enterprise School District No. 21 will be taken away if we create a national park.

One thing is certain—I will never introduce any legislation that will shut down schools in Pennsylvania.

While I realize this language is not in this amendment, I think it's worth talking about be-

cause it shows the ultimate intent of the sponsors of this amendment.

They want to take all this land out of multiple-use and put it into wilderness or national parks, but they have no idea of the impacts and they don't care.

I guess if you want dead ecosystems in the Rocky Mountains and less jobs in the Western United States you should support this amendment. If you want diverse, healthy forests and a healthy economy you should reject the Kostmayer amendment.

The CHAIRMAN (Mr. DONNELLY). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

*S. 1696*

*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 referred to as the "Montana National Forest Management Act of 1992".*

***SEC. 2. FINDINGS AND PURPOSES.***

*(a) FINDINGS.—The Congress finds that—*

*(1) Many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wild land for the benefit of the American people.*

*(2) The existing Department of Agriculture Land and Resource Management Plans for Forest System lands in the State of Montana have identified areas which, on the basis of their land form, ecosystem, associated wildlife, and location will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System.*

*(3) The existing Department of Agriculture Land and Resource Management Plans for National Forest System lands in the State of Montana and the related congressional review of such lands have also identified areas that do not possess outstanding wilderness attributes or possess outstanding energy, mineral, timber, grazing, dispersed recreation, or other values. Such areas should not be designated as components of the National Wilderness Preservation System but should be available for multiple uses under the land management planning process and other applicable law.*

*(b) PURPOSES.—The purposes of this Act are to—*

*(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, and physical and mental challenge; and*

*(2) ensure that certain other National Forest System lands in the State of Montana will be managed under the national forest land and resource management plans.*

***SEC. 3. WILDERNESS DESIGNATIONS.***

*(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964, the following lands in the State of Montana are designated as wilderness and, therefore, as components of the National Wilderness Preservation System:*

*(1) Certain lands in the Beaverhead, Bitterroot, and Deerlodge National Forests, which comprise approximately 31,660 acres, as generally depicted on a map entitled "Anaconda-Pintler Wilderness Additions—Proposed" (North Big Hole, Storm Lake, Upper East Fork), dated September 1992, and which are hereby incorporated in and shall be deemed to be a part of the Anaconda-Pintler Wilderness.*

*(2) Certain lands in the Beaverhead National Forest, which comprise approximately 25,000 acres, as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed", dated September 1992, and which shall be known as the Italian Peaks Unit of the Great Divide Wilderness.*

*(3) Certain lands in the Beaverhead National Forest, which comprise approximately 80,500 acres, as generally depicted on a map entitled "East Pioneer Wilderness—Proposed", dated September 1992, and which shall be known as the East Pioneer Wilderness.*

*(4) Certain lands in the Beaverhead National Forest, Montana, comprising approximately 35,000 acres, as generally depicted on a map entitled "West Big Hole Wilderness—Proposed", dated September 1992, and which shall be known as the West Big Hole Unit of the Great Divide Wilderness.*

*(5) Certain lands in the Bitterroot, Deerlodge, and Lolo National Forests, which comprise approximately 64,800 acres, as generally depicted on a map entitled "Stony Mountain Wilderness—Proposed", dated September 1992, and which shall be known as the Stony Mountain Wilderness.*

*(6) Certain lands in the Bitterroot and Lolo National Forests, which comprise approximately 55,600 acres, as generally depicted on maps entitled "Selway-Bitterroot Wilderness Additions—Proposed", dated September 1992, and which are hereby incorporated in and shall be deemed to be a part of the Selway-Bitterroot Wilderness.*

*(7) Certain lands in the Custer National Forest, which comprise approximately 8,000 acres, as generally depicted on a map entitled "Lost Water Canyon Wilderness—Proposed", dated September 1992, and which shall be known as the Lost Water Canyon Wilderness.*

*(8) Certain lands in the Custer National Forest, which comprise approximately 6,000 acres, as generally depicted on a map entitled "Custer Absaroka Beartooth Wilderness Additions—Proposed" (Burnt Mountain, Timberline Creek, Stateline and Mystic Lake), dated November 1991, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.*

*(9) Certain lands in the Deerlodge and Helena National Forests, which comprise approximately 19,000 acres, as generally depicted on a map entitled "Blackfoot Meadow-Electric Peak Wilderness—Proposed", dated September 1992, and which shall be known as the Blackfoot Meadow Unit of the Great Divide Wilderness.*

*(10) Certain lands in the Flathead and Kootenai National Forests, which comprise approximately 118,000 acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed (Tuchuck, Thompson-Seton, and Mount Hefty)", dated September 1992, and which shall be known as the North Fork Wilderness.*

*(11) Certain lands in the Flathead, Helena, Lolo, and Lewis and Clark National Forests, which comprise approximately 232,980 acres, as generally depicted on maps entitled "Arnold Bolle Additions to the Bob Marshall Wilderness—Proposed" (Silver King-Falls Creek, Renshaw, Clearwater-Monture, Deep Creek, Teton High Peak, Volcano Reef, Slippery Bill, Limestone Cave, Choteau Mountain, and Crown Mountain), dated September 1992, which shall be known as the Arnold Bolle-Bob Marshall Wilderness Additions and are incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness.*

*(12) Certain lands in the Flathead National Forest, which comprise approximately 960 acres, as generally depicted on a map entitled "Mission Mountains Wilderness Additions—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Mission Mountain Wilderness.*

*(13) Certain lands in the Flathead and Lolo National Forests, comprising approximately 173,500 acres, as generally depicted on maps entitled "Jewel Basin/Swan Wilderness—Proposed", dated September 1992. Those lands contiguous to the west slope of the Bob Marshall Wilderness referred to in this paragraph are hereby incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness, while the remaining lands shall be known as the Swan Crest Wilderness.*

*(14) Certain lands in the Gallatin National Forest, which comprise approximately 14,440 acres, as generally depicted on a map entitled "Gallatin Absaroka Beartooth Wilderness Additions—Proposed" (Dexter Point Tie Creek and Mt. Rae), dated September 1992, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.*

*(15) Certain lands in the Gallatin and Beaverhead National Forests, which comprise approximately 20,100 acres, as generally depicted on a map entitled "Lee Metcalf Cowboys Heaven Addition—Proposed", dated September 1992, and which are hereby incorporated in and shall be deemed to be a part of the Lee Metcalf Wilderness.*

*(16) Certain lands in the Gallatin National Forest, which comprise approximately 19,440 acres, as generally depicted on a map entitled "Earthquake Wilderness—Proposed", dated September 1992, and which shall be known as the Earthquake Unit of the Great Divide Wilderness.*

*(17) Certain lands in the Helena National Forest, which comprise approximately 24,000 acres, as generally depicted on a map entitled "Camas Creek Wilderness—Proposed", dated September 1992, and which shall be known as the Camas Creek Wilderness.*

*(18) Certain lands in the Helena National Forest, which comprise approximately 15,000 acres, as generally depicted on a map entitled "Mount Baldy Wilderness—Proposed", dated September 1991, and which shall be known as the Mount Baldy Wilderness.*

*(19) Certain lands in the Helena National Forest, Montana, which comprise approximately 10,500 acres, as generally depicted on a map entitled "Gates of the Mountains Wilderness Additions—Proposed" (Big Log), dated September 1992, and which are hereby incorporated in and shall be deemed to be part of the Gates of the Mountain Wilderness.*

*(20) Certain lands in the Helena National Forest, which comprise approximately 8,500 acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated September 1992, and which shall be known as the Black Mountain Unit of the Great Divide Wilderness.*

*(21) Certain lands in the Kootenai National Forest, which comprise approximately 34,840 acres, as generally depicted on a map entitled "Cabinet Mountains Wilderness Additions—Proposed", dated September 1992, and which are hereby incorporated in and shall be deemed to be part of the Cabinet Mountains Wilderness.*

*(22) Certain lands in the Kaniksu and Kootenai National Forest, which comprise approximately 50,000 acres, as generally depicted on a map entitled "Scotchman Peaks Wilderness—Proposed", dated September 1991, which*

shall be known as the Scotchman Peaks Wilderness.

(23) Certain lands in the Kootenai National Forest which comprise approximately 22,000 acres, as generally depicted on a map entitled "Yaak Wilderness-Proposed" (Roderick Mountain), dated September 1992, which shall be known as the Yaak Wilderness.

(24) Certain lands in the Kootenai and Lolo National Forests, which comprise approximately 17,900 acres, as generally depicted on a map entitled "Cataract Peak Wilderness—Proposed", dated September 1991, which shall be known as the Cataract Peak Wilderness.

(25) Certain lands in the Lolo National Forest, which comprise approximately 19,900 acres, as generally depicted on a map entitled "Cube Iron/Mount Silcox Wilderness—Proposed", dated September 1992, which shall be known as the Cube Iron/Mount Silcox Wilderness.

(26) Certain lands in the Lolo National Forest, which comprise approximately 94,700 acres, as generally depicted on a map entitled "Great Burn Wilderness—Proposed", dated September 1991, which shall be known as the Great Burn Wilderness.

(27) Certain lands in the Lolo National Forest, which comprise approximately 60,100 acres, as generally depicted on a map entitled "Quigg Peak Wilderness—Proposed", dated September 1991, which shall be known as the Quigg Peak Wilderness.

(28) Certain lands in the Lewis and Clark National Forest, which comprise approximately 40,000 acres, as generally depicted on a map entitled "Crazy Mountain Wilderness—Proposed", dated September 1992, and which shall be known as the Crazy Mountain Wilderness.

(29) Certain lands in the Kootenai National Forest, which comprise approximately 25,000 acres, as generally depicted on a map entitled "Trout Creek Wilderness—Proposed", dated September 1992, and which shall be known as the Trout Creek Wilderness.

(30) Certain lands in the Deerlodge National Forest, which comprise approximately 40,300 acres, as generally depicted on a map entitled "Flint Creek Wilderness—Proposed", dated September 1992, and which shall be known as the Flint Creek Wilderness.

(31) Certain lands in the Helena National Forest, which comprise approximately 19,000 acres, as generally depicted on a map entitled "Nevada Mountain Wilderness—Proposed", dated September 1992, and which shall be known as the Nevada Mountain Unit of the Great Divide Wilderness.

(32) Certain lands in the Helena National Forest, which comprise approximately 60,000 acres, as generally depicted on a map entitled "Elkhorn Wilderness—Proposed", dated September 1992, and which shall be known as the Elkhorn Wilderness.

(33) Certain lands in the Gallatin National Forest, which comprise approximately 500 acres, as generally depicted on a map entitled "North Absaroka Wilderness Addition—Proposed (Republic Mountain)", dated September 1992, and which are hereby incorporated in and shall be deemed a part of the North Absaroka Wilderness.

(b) MAPS AND LEGAL DESCRIPTIONS.—(1) The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file the maps referred to in this section and legal descriptions of each wilderness area designated by this section with 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, and each such map and legal description shall have the same force and effect as if included in this Act.

(2) The Secretary may correct clerical and typographical errors in the maps and the legal descriptions submitted pursuant to this section.

(3) Each map and legal description referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Washington, D.C. and at the office of the Regional Forester of the Northern Region.

(c) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated by this section shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964, except that, with respect to any area designated in this section, any reference to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) WILDERNESS AREA PERIMETERS.—Congress does not intend that the designation of wilderness areas in this section will lead to the creation of protective perimeters or buffer zones around such areas. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e) GRAZING.—The grazing of livestock, where established prior to the date of enactment of this Act, in wilderness areas designated in this section shall be administered in accordance with section 4(d)(4) of the Wilderness Act of 1964 and section 108 of an Act entitled "An Act to designate certain National Forest System Lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes" (94 Stat. 3271; 16 U.S.C. 1133 note).

(f) STATE FISH AND GAME AUTHORITY.—In accordance with section 4(d)(7) of the Wilderness Act of 1964, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Montana with respect to wildlife and fish in the national forests of Montana.

(g) HUNTING.—Nothing in this Act or the Wilderness Act of 1964 shall be construed to prohibit hunting within the wilderness areas designated in this section.

(h) COLLECTION DEVICES.—(1) Within the wilderness areas designated in this section, the installation and maintenance of essential hydrological, meteorological, or climatological collection devices and ancillary facilities is permitted, subject to such conditions as the Secretary deems desirable.

(2) Access to the devices and facilities described in paragraph (1) shall be by the means historically used, if that method is the least intrusive practicable means available. Access, installation, and maintenance shall be compatible with the provisions of the Wilderness Act.

**SEC. 4. WATER.**

(a) RESERVATION.—With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes for which such area is designated. The priority date of such reserved rights shall be the date of enactment of this act.

(b) IMPLEMENTATION.—The Secretary of Agriculture, and all other officers of the United States shall take all steps necessary to protect the rights reserved by subsection (a), including the filing of claims for quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of Montana in which the United States has been or is hereafter properly joined in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 5460; 43 U.S.C. 666), commonly referred to as the "McCarran Amendment".

(c) CONSTRUCTION.—(1) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved, appropriated, or otherwise secured by the United States in the State of Montana on or before the date of enactment of this Act.

(2) Nothing in this Act shall be construed as establishing a precedent with regard to any future designations, including designations of wilderness, or as constituting an interpretation of any other Act or designations made pursuant thereto.

**SEC. 5. SPECIAL MANAGEMENT AREAS.**

(a) DESIGNATIONS.—For the purposes of conserving, protecting and enhancing the exceptional scenic, fish and wildlife, biological, educational and recreational values of certain National Forest System lands in the State of Montana, the following designations are made:

(1) The Mount Helena National Education and Recreation Area located in the Helena National Forest, comprising approximately 5,120 acres, as generally depicted on a map entitled "Mount Helena National Education and Recreation Area—Proposed", dated September 1992.

(2) The Hyalite National Education and Recreation Area located in the Gallatin National Forest, comprising approximately 18,900 acres, as generally depicted on a map entitled "Hyalite National Education and Recreation Area—Proposed", dated September 1992.

(3) The Northwest Peak National Recreation Area located in the Kaniksu and Kootenai National Forests, comprising approximately 16,700 acres, as generally depicted on a map entitled "Northwest Peak National Recreation and Scenic Area—Proposed", dated September 1991.

(4) The Buckhorn Ridge National Recreation Area located in the Kaniksu and Kootenai National Forests, comprising approximately 20,000 acres, as generally depicted on a map entitled "Buckhorn Ridge National Recreation Area—Proposed", dated September 1991.

(5) The West Big Hole National Recreation Area located in the Beaverhead National Forest, comprising approximately 90,000 acres, as generally depicted on a map entitled "West Big Hole National Recreation Area—Proposed", dated September 1992, and which shall be known as the West Big Hole National Recreation Area.

(b) MAPS.—The Secretary shall file the maps referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, United States House of Representatives, and each such map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in such maps may be made. Each such map shall be on file and available for public inspection in the office of the Chief of the Forest Service and the office of the Regional Forester of the Northern Region.

(c) MANAGEMENT.—(1) Except as otherwise may be provided in this subsection, the Secretary shall administer the areas designated in subsection (a) so as to achieve the purposes of their designation and in accordance with the laws and regulations applicable to the National Forest System.

(2) Subject to valid existing rights, all federally owned lands within the areas designated in subsection (a) are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(3) Commercial timber harvesting is prohibited in the areas designated by this section with the following exceptions:

(A) Nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(B) Fuel wood, post and pole gathering may be permitted.

(C) Commercial timber harvesting may be permitted in the Hyalite National Recreation and Education Area, but must be compatible with the purposes of its designation.

(4) Where the Secretary determines that such use is compatible with the purposes for which an area is designated, the use of motorized equipment may be permitted in the areas subject to applicable law and applicable land and resource management plans.

(5) The grazing of livestock, where established prior to the date of enactment of this Act may be permitted to continue subject to applicable law and regulations of the Secretary.

(d) NATIONAL RECREATION AREAS.—The Secretary shall manage the Mount Helena and Hyalite National Education and Recreation Areas with a focus on education. All management activities shall be conducted in a manner that provides the public with an opportunity to become better informed about natural resource protection and management.

(e) LAND AND RESOURCE MANAGEMENT PLANS.—Those areas established pursuant to subsection (a) shall be administered as components of the national forests wherein they are located. Land and resource management plans for the affected national forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, shall achieve the purposes for which the areas are designated. The provisions of the national forest land and resource management plan, relating to each area designated by this section, shall also be available to the public in a document separate from the rest of the forest plan.

**SEC. 6. WILDERNESS STUDY AREAS.**

(a) DESIGNATION.—The following areas are hereby designated as wilderness study areas and shall be managed in accordance with the provisions of this section:

(1) Certain lands in the Custer National Forest, comprising approximately 22,000 acres, as generally depicted on a map entitled "Line Creek Plateau Wilderness Study Area—Proposed", dated September 1992.

(2) Certain lands on the Gallatin National Forest, comprising approximately 21,500 acres, as generally depicted on a map entitled "Sawtooth Mountain Wilderness Study Area—Proposed", dated September 1992.

(3) Certain lands in the Lolo National Forest which comprise approximately 22,000 acres, as generally depicted on a map entitled "Sheep Mountain Wilderness Study Area—Proposed", dated November 1991.

(4) Certain lands in the Lewis and Clark and Gallatin National Forests, which comprise approximately 75,000 acres, as generally depicted on a map entitled "Crazy Mountain Wilderness Study Area—Proposed", dated September 1992. The Forest Service shall complete a study of public and private land consolidation alternatives for this area which shall be submitted to the appropriate committees of Congress 2 years after the date of the enactment of this Act.

(5) Certain lands in the Gallatin National Forest, which comprise approximately 4,500 acres, as generally depicted on a map entitled "South Cottonwood Wilderness Study Area—Proposed," dated September, 1992, and shall be managed as part of the Gallatin Wilderness Study Area in accordance with Public Law 95–150.

(b) REPORT.—When the forest plans are revised, the Secretary shall submit 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 containing recommendations as to whether the areas designated in subsection (a) should be added as components of the National Wilderness Preservation System.

(c) MANAGEMENT.—Subject to valid existing rights, the wilderness study areas designated in subsection (a) shall be managed to protect their suitability for inclusion in the National Wilderness Preservation System.

(d) MAPS.—The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, United States House of Representatives, and the Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service and the Regional Forester of the Northern Region.

(e) ADJUSTMENT.—Certain lands in the Beaverhead National Forest, which comprise approximately 700 acres, as generally depicted on a map entitled "The West Pioneers Boundary Adjustment-Proposed," dated September 1992, shall be deleted from the West Pioneers Wilderness Study Area and shall no longer be subject to the provisions of Public Law 95–150.

**SEC. 7. BADGER-TWO MEDICINE AREA.**

(a) WITHDRAWAL.—(1) Subject to valid existing rights including rights held by the Blackfeet nation under existing treaties and statute, all federally owned lands as depicted on a map entitled "Badger-Two Medicine Area", dated September 1991, comprising approximately 116,600 acres, are withdrawn from all forms of entry, appropriation, and disposal under the mining and public land laws and from disposition under the geothermal and mineral leasing laws. Until otherwise directed by Congress, the Secretary shall manage this area so as to protect its wilderness qualities.

(2) Nothing in this section shall preclude the gathering of timber by the Blackfeet Tribe (the "Tribe") in exercise of valid treaty rights within the Badger-Two Medicine Area.

(3)(A) With respect to oil and gas leases on Federal lands within the Badger-Two Medicine Area, no surface disturbance shall be permitted pursuant to such leases until Congress determines otherwise.

(B) Notwithstanding any other law, the term of any oil and gas lease subject to the limitations imposed by this section shall be extended for a period of time equal to the term that such limitation remains in effect.

(b) REVIEW.—The Secretary shall conduct a review of the area referred to in subsection (a) in accordance with the Wilderness Act of 1964 and the provisions of this subsection. Not later than 5 years after the date of enactment of this Act, the Secretary shall report to Congress. In conducting this review:

(1) The Secretary shall establish a committee composed of 1 representative each from the Blackfeet Tribal Business Council, the Blackfeet Tribal traditionalists, and the National Park Service, as well as at least one representative of various concerned user groups, including proportional representation for environmental groups and industry groups. The Committee shall not exceed eleven members. The Blackfeet Tribal Business Council shall choose the 2 Tribal representatives. The Blackfeet Tribal Business Council shall conduct a public meeting to receive recommendations of the community regarding the selection of these members. The committee shall regularly advise the Secretary during the preparation of the report required in this subsection and submit its findings to Congress concurrently with those of the Secretary.

(2) Special consideration shall be given to the religious, wilderness and wildlife uses of the area, taking into account any treaties the United States has entered into with the Blackfeet Nation.

(3) In consultation with the committee, the Secretary shall establish a process to provide information to the Tribe and interested public about options for future designation of the Badger-Two Medicine Area.

(c) RIGHTS.—Nothing in this section shall be construed to diminish, prejudice, add to, or otherwise affect the treaty rights of the Blackfeet Tribe or the rights of the United States.

**SEC. 8. SEVERED MINERALS EXCHANGE.**

(a) FINDINGS.—The Congress finds that—

(1) underlying certain areas in Montana described in subsection (b) are mineral rights owned by subsidiaries of Burlington Resources, Incorporated (hereinafter collectively referred to in this section as the "company");

(2) there are federally owned minerals underlying privately owned lands lying outside those areas;

(3) the company has agreed in principle with the Department of Agriculture to an exchange of mineral rights to consolidate Federal surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable that an exchange be completed within 2 years after the date of enactment of this Act.

(b) DESCRIPTION OF MINERAL INTERESTS.—(1) Pursuant to an exchange agreement between the Secretary and the company, the Secretary may acquire mineral interests owned by the company underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in fractional sections adjacent to those areas.

(2) In exchange for the mineral interests conveyed to the Secretary pursuant to paragraph (1), the Secretary of the Interior shall convey, subject to valid existing rights, such federally owned mineral interests as the Secretary and the company may agree upon.

(c) EQUAL VALUE.—(1) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information.

(2) To ensure that the wilderness or other natural values of the areas are not affected, a formal appraisal based upon drilling or other surface disturbing activities shall not be required for any mineral interest proposed for exchange, but the Secretary and the company shall fully share all available information on the quality and quantity of mineral interests proposed for exchange.

(3) In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and the company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) IDENTIFICATION OF FEDERALLY OWNED MINERAL INTERESTS.—(1) Subject to paragraph (2), mineral interests conveyed by the United States pursuant to this section shall underlie lands the surface of which were owned by the company or its predecessor on September 16, 1987.

(2) If there are not sufficient federally owned mineral interests of approximately equal value underlying the lands identified in paragraph (1), the Secretary and the Secretary of the Interior may identify for exchange any other federally owned mineral interest in land in the State of Montana of which the surface estate is in private ownership.

(e) CONSULTATION WITH THE DEPARTMENT OF THE INTERIOR.—(1) The Secretary shall consult with the Secretary of the Interior in the negotiation of the exchange agreement authorized by subsection (b), particularly with respect to the inclusion in such an agreement of a provision calling for the exchange of federally owned mineral interests lying outside the boundaries of units of the National Forest System.

(2) Notwithstanding any other law, the Secretary of the Interior shall convey the federally owned mineral interests identified in a final exchange agreement between the Secretary of Agriculture and the company.

(f) DEFINITION.—For purposes of this section, the term "mineral interests" includes all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) ENVIRONMENTAL LAW.—The execution and performance of an exchange agreement and the taking of other actions pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment within the meaning of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), nor shall they require the preparation of an environmental assessment under this Act.

**SEC. 9. LANDS ADMINISTERED BY BUREAU OF LAND MANAGEMENT.**

(a) FINDING.—The Congress has reviewed the suitability of a portion of the Axolotl Lakes Wilderness Study Area (MT-076-069, BLM Wilderness Study Number) as generally depicted on a map entitled "Released portion of Axolotl Lakes WSA", dated September 1992, for wilderness designation and finds that this portion has been sufficiently studied for wilderness pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) DIRECTION.—The area described in subsection (a) shall no longer be subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to management in a manner that does not impair suitability for preservation as wilderness.

(c) ADMINISTRATIVE JURISDICTION.—Those lands designated as wilderness pursuant to paragraphs (3) and (27) of section 3(a) of this Act, which, as of the date of enactment of this Act, are administered by the Secretary of the Interior as public lands (as defined in the Federal Land Policy and Management Act of 1976), are hereby transferred to the jurisdiction of the Secretary of Agriculture, and shall be added to and managed as part of the National Forest System, and the boundaries of the adjacent National Forests are hereby modified to include such lands.

(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. 4601-9), the boundaries of affected National Forests, as modified by this section, shall be considered to be the boundaries of such National Forests 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. 10. NORTHERN ROCKIES ECOSYSTEM AND ECONOMICS STUDY.**

(a) PURPOSE.—The purpose of this section is to protect and enhance ecological values of the Northern Rockies Ecosystem and to assure that disruptions to communities and local economies are minimized through the sustainable use of the natural resources in the Northern Rockies. To accomplish the purpose, the Secretary shall—

(1) assess current environmental and economic conditions in the Northern Rockies ecosystem;

(2) evaluate the recent and likely trends in those conditions under current management;

(3) determine sustainable environmental conditions and economies dependent thereon; and

(4) identify opportunities and requirements to achieve and improve sustainability of the natural resources and the economy.

(b) STUDY.—(1) The Secretary of Agriculture, acting through the Forest Service Research Branch, shall undertake a Northern Rockies Ecosystem and Economics Study ("Study"). In conducting the study, the Forest Service shall draw from expertise throughout the Research Branch and cooperate with other Federal agencies, relevant State agencies, local governments, Tribal governments, and the relevant departments (such as biology, ecology, forestry, range, wildlife and fish, recreation, business, economics, law, etc.) of public universities in the Northern Rockies.

(2) The Secretary of Agriculture shall establish an Advisory Panel consistent with the Federal Advisory Committee Act to meet to review and comment on: (A) the study plan; (B) contractor, background, and interim reports, if any; and (C) the final report. The Advisory Panel shall represent a balance of groups and individuals interested in or affected by natural resource management, and shall represent regional interests and the national concerns in an equitable manner.

(3) The Study shall address the following topics:

(A) The current ecological trends and conditions, environmental sustainability of the Northern Rockies Ecosystem, including but not limited to—

(i) air and water quality;

(ii) timber quantity, quality, and growth;

(iii) rangeland quality;

(iv) riparian areas;

(v) diversity of native plant and animal species;

(vi) connectivity among isolated ecosystems;

(vii) uncommon, rare, threatened, and endangered species;

(viii) populations of animals for consumptive and nonconsumptive uses;

(ix) wilderness areas;

(x) dispersed recreation opportunities; and

(xi) developed recreation facilities.

(B) The current contribution of commodity and non-commodity uses and output of natural resources to the local and regional economies, including, but not limited to—

(i) distinguishing among the various resource uses and outputs;

(ii) examining the distribution of resource-related economic activities among local communities; and

(iii) distinguishing the contributions from each landowner class: Federal, State, Tribal, other government, forest industry, other major private corporations, and other private (non-industrial) landowners.

(C) The sustainable contribution of commodity and non-commodity uses and outputs of natural resources, using the same distinctions specified in subparagraph (B), and assuming:

(i) achievement of State air and water quality standards; and

(ii) maintenance of or increase in the quality of natural resources in the region, including: the timber available; range lands grazed by livestock; riparian areas; the diversity of plant and animal species; connectivity among isolated ecosystems; uncommon, rare, threatened, and endangered native species; populations of animals for consumptive and nonconsumptive uses; wilderness areas; dispersed recreation opportunities and developed recreation facilities.

(D) Opportunities to improve environmental conditions that could permit an expansion of the sustainable contribution of commodity and non-commodity uses and outputs of natural resources. The assessment shall identify the financial and non-financial costs for the various opportunities, and the likely or possible incidence of those costs. Opportunities shall include each of the following:

(i) Increasing desirable natural vegetative growth including: reforestation with native species, thinning and other timber stand modifications, prescribed burning, and seeding or planting native grasses, forbs, and shrubs.

(ii) Improving the quality of other biological resources (such as species diversity and animal populations), including: habitat restoration, extended timber rotations, alternative timber harvesting systems and grazing regimes, reserves to protect and improve connectivity among isolated ecosystems, and different standards and methods for road construction, maintenance, closure, and eradication.

(iii) Enhancing the quality of non-biological resources (such as recreation trails and facilities, wilderness areas, and watersheds and streams), including: site restoration and rehabilitation, demand management (user regulation and enforcement, marketing to shift timing and location of uses, etc.) and different standards and methods for road construction, maintenance, closure, and eradication.

(E) Recommendations on investments and practices for agencies responsible for natural resource management.

(c) SCHEDULE.—(1) The study plan shall be ready for review by the Advisory Panel within one year after the enactment of this Act.

(2) Contractor, background, and interim reports shall be presented to the Advisory Panel as they are completed.

(3) The draft report shall be ready for review by the Advisory Panel within 2 years after the Panel's meeting to review the study plan. With Advisory Committee input, the Secretary shall arrange peer review of the draft report among appropriate independent experts in the relevant fields.

(4) The final report shall be presented to the Committee on Interior and Insular Affairs of the United States House of Representatives, the Committee on Energy and Natural Resources of the United States Senate, to the Chief of the Forest Service, and to the heads of other Federal and State agencies who have jurisdiction over wild land management or are responsible for regulating management practices or impacts in the Northern Rockies Ecosystem Area.

**SEC. 11. MISCELLANEOUS PROVISIONS.**

(a) REDESIGNATION.—Those lands comprising the Rattlesnake National Recreation Area and Wilderness, as designated in Public Law 96-476 are hereby redesignated as the "Rattlesnake National Education and Recreation Area and Wilderness".

(b) WITHDRAWAL.—Those lands comprising approximately 24,000 acres, as generally depicted on a map entitled "Gibson Reservoir Mineral Withdrawal Area—Proposed", dated November 1991, are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(c) ACREAGES.—All acreages cited in this Act are approximate and in the event of discrepancies between cited acreage and the lands depicted on referenced maps, the maps shall control.

(d) ACCESS.—It is the policy of Congress that the Forest Service acquire and maintain reasonable public access to National Forest System lands in the State of Montana.

(e) SCAPEGOAT AND GREAT BEAR WILDERNESS NAMES.—In order to consolidate existing contiguous wilderness areas, those lands comprising the Great Bear Wilderness Area designated by Public Law 95-946 and any amendments thereto and the Scapegoat Wilderness Area designated by Public Law 92-395 and any amendments thereto are hereby incorporated in and deemed to be a part of the Bob Marshall Wilderness. The designations of the Great Bear Wilderness and Scapegoat Wilderness shall refer to units within the Bob Marshall Wilderness.

**SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated—

(1) such sums as are necessary for the development of a wilderness education and ranger training complex at the Ninemile Ranger Station, Lolo National Forest, Montana; and

(2) such sums as are necessary to carry out this Act.

**SEC. 13. WILDERNESS REVIEW.**

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has studied the suitability of roadless areas for inclusion in the National Wilderness Preservation System; and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Montana and the environmental impacts associated with alternative allocations of such areas.

(b) RELEASE.—Those National Forest System lands in the State of Montana which were not designated as wilderness, special management, national recreation, or wilderness study areas by this Act shall be managed for multiple use in accordance with land and resource management plans developed pursuant to section 6 of the forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, and those areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the land and resource management plans.

(c) PLAN REVISIONS.—In the event that revised land management plans in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation, need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation.

(d) FURTHER REVIEW.—Unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Montana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(e) PREVIOUS PLANS.—Except as specifically provided in sections 3, 5, 6, and 7 of this Act and in Public Law 95–150, with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture under Public Law 94–557, the unit plans that were in effect prior to completion of RARE II, the 1978 Forest Plan for the Beaverhead National Forest, that such reviews shall be deemed an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the Land and Resource Management Plans.

(f) REVISIONS.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Foreign Management Act, the term "revision" shall not include an amendment to a land and resource management plan.

(g) SIZE.—The provisions of this section shall apply to those National Forest System roadless lands in the State of Montana which are less than 5,000 acres in size.

**SEC. 14. PLUM CREEK LAND EXCHANGE—GALLATIN AREA.**

(a) IN GENERAL.—The Secretary shall, subject to the provisions of section 15 and section 16 and, notwithstanding any other law, acquire by exchange and cash equalization in the amount of $3,400,000, certain lands and interests in land of the Plum Creek Timber, L.P. (referred to in this sectin as the "company") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other land in the Gallatin National Forest in accordance with this section.

(b)(1) DESCRIPTION OF LANDS.—If the company offers to the United States the fee title, including mineral interests, to approximately 37,752 and 15/100 acres of land owned by the company which is availalble for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, recommend that the Secretary of the Interior convey, subject to valid existing rights, by patent the fee title to approximately 12,414 and 6/100 acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 40389, 53670, 40215, 33385, 53736, and 38684; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary of Agriculture and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the country wherein the leased lands are situated.

(c) EASEMENTS.—At closing on the conveyances authorized by this section—

(1) in consideration of the easements conveyed by the company as provided in paragraph 2 of this subsection, the Secretary of Agriculture shall, under authority of the National Forest Roads and Trails Act of October 13, 1964, or the Federal Land Policy and Management Act of 1976, execute and deliver to the company such easements and authorizations over federally owned lands included in this exchange as may be agreed to by the Secretary and the company in the exchange agreement.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States such easements and authorizations across company-owned lands included in this exchange as may be agreed to by the Secretary and the company in the exchange agreement.

(d) MAPS.—The maps referred to in subsection (b) are subject to such minor corrections as may be agreed upon by the Secretary and the company. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representativesof any corrections made pursuant to the subsection.

(e) TIMING OF TRANSACTION.—It is the intent of Congress that the conveyances authorized by this section be completed within 90 days after the date of enactment of an Act making the appropriation authorized by subsection (g).

(f) FOREST LANDS.—All lands conveyed to the United States pursuant to this section shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section the sum $3,400,000, which amount the Secretary shall, when appropriated, pay to the company to equalize the value of the exchange of land authorized by this section.

(h) QUALITY OF TITLE.—Title to the properties referenced in this section and sections 15, 16, and 17 to be offered to the United States by Big Sky Lumber Company, its assignees or successors in interest, shall be inclusive of the entire surface and subsurface estates without reservation or exception. The owner shall be required to reacquire any outstanding interest in mineral or mineral rights, timber or timber rights, water or water rights, or any other outstanding interest in the property, except reservations by the United States or the State of Montana by patent, in order to assure that title to the property is transferred as described in this section and sections 15, 16, and 17. The agreement shall clearly evidence that the owners have the legal capacity to accomplish the foregoing requirements. Title standards for acquisition shall otherwise be in compliance with Forest Service policies and procedures.

(h) REFERENCES.—The reference and authorities of this section referring to Plum Creek Timber Company, L.P., shall also refer to its successors.

**SEC. 15. LAND CONSOLIDATION; PORCUPINE AREA.**

(a) IN GENERAL.—The exchange described in section 14 of this Act shall not be consummated by the Secretary until the conditions of this section are met.

(b) CONDITIONS.—The Secretary or a qualified section 501(c)(3) conservation entity, acting on its behalf for later disposition to the United States, shall have acquired, by purchase or option to acquire, or exchange, all of the Porcupine property for its fair market value, determined at the time of acquisition in accordance with appraisal standards acceptable to the Secretary by an appraiser acceptable to the Secretary and the owner. Any appraisal for exchange purposes shall be conducted by the same parties, utilizing the same standards noted above.

(c) DESCRIPTION OF LANDS.—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Porcupine Area", dated September, 1992.

(d) LAND ACQUISITION AUTHORITIES.—Acquisitions pursuant to this section shall be under existing authorities available to the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.

(f) AUTHORIZATION OF EXCHANGE.—The Secretary is authorized to offer the lands and interests described on a map entitled "Porcupine Exchange Lands", dated September, 1992, to Big Sky Lumber Company, its assignee or successors in interest to fulfill the purposes of this section: Provided, That the lands shall not transfer to the company until the provisions of this section and section 16 are met.

(g) EQUAL VALUE.—Any exchange of lands between Big Sky Lumber Company and the United States shall be for equal value.

(h) REFERENCES.—The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors.

**SEC. 16. LAND CONSOLIDATION—TAYLOR FORK AREA.**

(a) IN GENERAL.—The exchange described in section 14 of this Act shall not be consummated

*by the Secretary until the conditions of this section are met.*

*(b) CONDITIONS.—The Secretary or a qualified section 501(c)(3) conservation entity, acting on its behalf for later disposition to the United States, shall have acquired, by purchase or option to acquire, or exchange, all of the Taylor Fork property for its fair market value, determined at the time of acquisition in accordance with appraisal standards acceptable to the Secretary by an appraiser acceptable to the Secretary and the owner. Any appraisal for exchange purposes shall be conducted by the same parties, utilizing the same standards noted above.*

*(c) DIRECTION.—The Secretary is directed to provide Congress, within 2 years, recommendations designed to acquire by purchase or exchange Taylor Fork Area lands owned by Big Sky Timber Company: Provided, That such recommendations are agreed to by Big Sky Lumber Company: Provided further, That nothing in this section limits the Secretary's authority to acquire or purchase said lands.*

*(d) DESCRIPTION OF LANDS.—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Taylor Fork Area", dated September, 1992.*

*(e) LAND ACQUISITION AUTHORITIES.—Acquisition pursuant to this section shall be under existing authorities available to the Secretary: Provided, That notwithstanding any other law, exchanges authorized in this section shall not be restricted within the same State.*

*(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.*

*(g) EQUAL VALUE.—Any exchange of lands between Big Sky Lumber Company and the United States shall be for equal value.*

*(h) REFERENCES.—The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors.*

*(i) REPORTS TO CONGRESS.—For a period of 2 years from the date of enactment of this Act, the Secretary shall report annually to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, on the status of the negotiations with the company or its successors in interest to effect the land consolidation authorized by this section.*

***SEC. 17. LAND CONSOLIDATION—GALLATIN AREA.***

*(a) IN GENERAL.—The Secretary shall work diligently to assure all lands within what is generally known as the Gallatin Range owned by Big Sky Lumber Company, its assignee or successors in interest, not acquired, purchased or exchanged pursuant to sections 14 and 15 of this Act are acquired by the United States through exchange or purchase.*

*(b) DIRECTION.—The Secretary is directed to provide Congress, within 3 years, recommendations designed to acquire by purchase or exchange Gallatin Area lands owned by Big Sky Timber Company: Provided, That such recommendations are agreed to by Big Sky Lumber Company: Provided further, That nothing in this section limits the Secretary's authority to acquire or purchase said lands.*

*(c) DESCRIPTION OF LANDS.—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Gallatin Area", dated September, 1992.*

*(d) LAND ACQUISITION AUTHORITIES.—Acquisitions pursuant to this section shall be under existing authorities available to the Secretary: Provided, That notwithstanding any other law, exchanges authorized in this section shall not be restricted within the same State.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.*

*(f) EQUAL VALUE.—Any exchange of lands between Big Sky Lumber Company and the United States shall be for equal value.*

*(g) REFERENCES.—The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors.*

*(i) REPORTS TO CONGRESS.—For a period of 3 years from the date of enactment of this Act, the Secretary shall report annually to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, on the status of the negotiations with the company or its successors in interest to effect the land consolidation authorized by this section.*

The CHAIRMAN. No amendment to the substitute is in order except those amendments printed in House Report 102-970. Each amendment shall be considered in the order printed, may be offered only by the named proponent or a designee, shall be considered as read, and shall not be subject to amendment. Debate on each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

If more than one of the amendments is adopted, only the last amendment is considered as finally adopted.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MARLENEE

Mr. MARLENEE. Mr. Chairman, I offer an amendment in the nature of a substitute which has been made in order pursuant to the rule, which is essentially a compromise for S. 1696 and which has been printed in the report accompanying House Resolution 590, the rule on S. 1696.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The test of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. MARLENEE: Strike all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be referred to as the "Montana National Forest Management Act of 1992".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) Many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wild land for the benefit of the American people.

(2) The existing Department of Agriculture Land and Resource Management Plans for Forest System lands in the State of Montana have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System.

(3) The existing Department of Agriculture Land and Resource Management Plans for National Forest System lands in the State of Montana and the related congressional review of such lands have also identified areas that do not possess outstanding wilderness attributes or possess outstanding energy, mineral, timber, grazing, dispersed recreation, or other values. Such areas should not be designated as components of the National Wilderness Preservation System but should be available for non-wilderness multiple uses under the land management planning process and other applicable law.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, and physical and mental challenge; and

(2) ensure that certain other National Forest System lands in the State of Montana be available for nonwilderness uses.

**SEC. 3. WILDERNESS DESIGNATIONS.**

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964, the following lands in the State of Montana are designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Beaverhead, Bitterroot, and Deerlodge National Forests, which comprise approximately twenty-nine thousand one hundred acres, as generally depicted on a map entitled "Anaconda-Pintler Wilderness Additions—Proposed" (North Big Hole, Storm Lake, Upper East Fork), dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Anaconda-Pintler Wilderness.

(2) Certain lands in the Beaverhead National Forest, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed", dated September 1991, and which shall be known as the Italian Peaks Wilderness.

(3) Certain lands in the Beaverhead National Forest, which comprise approximately seventy-nine thousand five hundred acres, as generally depicted on a map entitled "East Pioneer Wilderness—Proposed", dated September 1991, and which shall be known as the East Pioneer Wilderness.

(4) Certain lands in the Beaverhead National Forest, Montana, comprising approximately seventy-six thousand six hundred acres, as generally depicted on a map entitled "West Big Hole Wilderness—Proposed", dated September 1991, and which shall be known as the West Big Hole Wilderness.

(5) Certain lands in the Bitterroot, Deerlodge, and Lolo National Forests, which comprise approximately sixty-four thousand eight hundred acres, as generally depicted on a map entitled "Stony Mountain Wilderness—Proposed", dated November 1991, and which shall be known as the Stony Mountain Wilderness.

(6) Certain lands in the Bitterroot and Lolo National Forests, which comprise approximately fifty-five thousand six hundred acres, as generally depicted on maps entitled "Selway-Bitterroot Wilderness Additions—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Selway-Bitterroot Wilderness. The use of motorized equipment shall be prohibited on those lands surrounding High Lake which are excluded from the area designated as wilderness by this para-

graph, except for such equipment (including access by helicopter) as the Secretary determines to be necessary to allow for the operation and maintenance of the impoundment located on High Lake.

(7) Certain lands in the Custer National Forest, which comprise approximately five thousand eight hundred acres, as generally depicted on a map entitled "Lost Water Canyon Wilderness—Proposed", dated September 1991, and which shall be known as the Lost Water Canyon Wilderness.

(8) Certain lands in the Custer National Forest, which comprise approximately six thousand acres, as generally depicted on a map entitled "Absaroka Beartooth Wilderness Additions—Proposed" (Burnt Mountain, Timberline Creek, Stateline and Mystic Lake), dated November 1991, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.

(9) Certain lands in the Deerlodge and Helena National Forests, which comprise approximately nineteen thousand acres, as generally depicted on a map entitled "Blackfoot Meadow-Electric Peak Wilderness—Proposed", dated September 1991, and which shall be known as the Blackfoot Meadow Wilderness.

(10) Certain lands in the Deerlodge and Bitterroot National Forests, which comprise approximately fifty-six thousand acres, as generally depicted on a map entitled "Sapphires Wilderness—Proposed", dated November 1991, and which shall be known as the Sapphires Wilderness.

(11) Certain lands in the Flathead National Forest, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed (Tuchuck and Mount Hefty)", dated November 1991, and which shall be known as the North Fork Wilderness.

(12) Certain lands in the Flathead, Helena, Lolo, and Lewis and Clark National Forests, which comprise approximately two hundred fifteen thousand seven hundred acres, as generally depicted on maps entitled "Arnold Bolle Additions to the Bob Marshall Wilderness—Proposed" (Silver King-Falls Creek, Renshaw, Clearwater-Monture, Deep Creek, Teton High Peak, Volcano Reef, Slippery Bill, Limestone Cave, and Crown Mountain), dated November 1991, which shall be known as the Arnold Bolle-Bob Marshall Wilderness Additions and are incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness.

(13) Certain lands in the Flathead National Forest, which comprise approximately nine hundred and sixty acres, as generally depicted on a map entitled "North Mission Mountain Wilderness Additions—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the North Mission Mountain Wilderness.

(14) Certain lands in the Flathead and Lolo National Forests, comprising approximately one hundred and fifty-nine thousand five hundred acres, as generally depicted on maps entitled "Jewel Basin/Swan Wilderness—Proposed", dated November 1991. Those lands contiguous to the west slope of the Bob Marshall Wilderness referred to in this paragraph are hereby incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness, while the remaining lands shall be known as the Swan Crest Wilderness.

(15) Certain lands in the Gallatin National Forest, which comprise approximately five thousand five hundred acres, as generally depicted on a map entitled "North Absaroka Wilderness Additions—Proposed" Republic Mountain and Dexter Point), dated November 1991, and which are hereby incorporated in and shall be deemed to be a part of the North Absaroka Wilderness.

(16) Certain lands in the Gallatin National Forest, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on a map entitled "Lee Metcalf Cowboys Heaven Addition—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Lee Metcalf Wilderness.

(17) Certain lands in the Gallatin National Forest, which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Earthquake Wilderness—Proposed", dated September 1991, and which shall be known as the Earthquake Wilderness.

(18) Certain lands in the Helena National Forest, which comprise approximately twenty-six thousand acres, as generally depicted on a map entitled "Camas Creek Wilderness—Proposed", dated September 1991, and which shall be known as the Camas Creek Wilderness.

(19) Certain lands in the Helena National Forest, which comprise approximately fifteen thousand acres, as generally depicted on a map entitled "Mount Baldy Wilderness—Proposed", dated September 1991, and which shall be known as the Mount Baldy Wilderness.

(20) Certain lands in the Helena National Forest, Montana, which comprise approximately ten thousand five hundred acres, as generally depicted on a map entitled "Gates of the Mountain Wilderness Additions—Proposed" (Big Log), dated September 1991, and which are hereby incorporated in and shall be deemed to be part of the Gates of the Mountain Wilderness.

(21) Certain lands in the Helena National Forest, which comprise approximately eight thousand five hundred acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated September 1991, and which shall be known as the Black Mountain Wilderness. The Secretary of Agriculture, using existing statutory authority, shall give special attention to the acquisition of non-federally owned lands within the Black Mountain Wilderness.

(22) Certain lands in the Kootenai National Forest, which comprise approximately thirty-one thousand acres, as generally depicted on a map entitled "Cabinet Mountains Wilderness Additions—Proposed", dated November 1991, and which are hereby incorporated in and shall be deemed to be part of the Cabinet Mountains Wilderness.

(23) Certain lands in the Kootenai National Forest, which comprise approximately fifty thousand acres, as generally depicted on a map entitled "Scotchman Peaks Wilderness—Proposed", dated September 1991, which shall be known as the Scotchman Peaks Wilderness.

(24) Certain lands in the Kootenai and Lolo National Forests, which comprise approximately seventeen thousand nine hundred acres, as generally depicted on a map entitled "Cateract Peak Wilderness—Proposed", dated September 1991, which shall be known as the Cateract Peak Wilderness.

(25) Certain lands in the Lolo and Kootenai National Forests, which comprise approximately seventeen thousand nine hundred acres, as generally depicted on a map entitled "Cube Iron/Mount Silcox Wilderness—Proposed", dated November 1991, which shall be known as the Cube Iron/Mount Silcox Wilderness.

(26) Certain lands in the Lolo National Forest, which comprise approximately ninety-four thousand seven hundred acres, as generally depicted on a map entitled "Great Burn Wilderness—Proposed", dated September 1991, which shall be known as the Great Burn Wilderness.

(27) Certain lands in the Lolo National Forest, which comprise approximately sixty thousand one hundred acres, as generally depicted on a map entitled "Quigg Peak Wilderness—Proposed", dated September 1991, which shall be known as the Quigg Peak Wilderness.

(b) MAPS AND LEGAL DESCRIPTIONS.—(1) The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file the maps referred to in this section and legal descriptions of each wilderness area designated by this section with 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, and each such map and legal description shall have the same force and effect as if included in this Act.

(2) The Secretary may correct clerical and typographical errors in the maps and the legal descriptions submitted pursuant to this section.

(3) Each map and legal description referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Washington, D.C. and at the office of the Region I Forester, Missoula, Montana.

(c) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated by this section shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964, except that, with respect to any area designated in this section, any reference to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) WILDERNESS AREA PERIMETERS.—Congress does not intend that the designation of wilderness areas in this section will lead to the creation of protective perimeters or buffer zones around such areas. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e) GRAZING.—The grazing of livestock, where established prior to the date of enactment of this Act, in wilderness areas designated in this section shall be administered in accordance with section 4(d)(4) of the Wilderness Act of 1964 and section 108 of an Act entitled "An Act to designate certain National Forest System Lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes" (94 Stat. 3271; 16 U.S.C. 1133 note).

(f) STATE FISH AND GAME AUTHORITY.—In accordance with section 4(d)(7) of the Wilderness Act of 1964, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Montana with respect to wildlife and fish in the national forests of Montana.

(g) HUNTING.—Subject to applicable law, Congress recognizes hunting as a legitimate and beneficial activity within wilderness areas designated in this section. Nothing in this Act or the Wilderness Act of 1964 shall be construed to prohibit hunting in such areas.

(h) COLLECTION DEVICES.—(1) Within the wilderness areas designated in this section,

neither the Wilderness Act of 1964 or this Act shall be construed to prevent the installation and maintenance of hydrological, meteorological, or climatological collection devices and ancillary facilities subject to such conditions as the Secretary deems desirable, where such facilities or access are essential to flood warning, flood control, and water reservoir operation purposes.

(2) Access to the devices and facilities described in paragraph (1) shall be by the means historically used, if that method is the least intrusive practicable means available.

**SEC. 4. WATER RIGHTS.**

(a) FINDING.—The Congress finds that the waters within the wilderness areas designated by section 3 of this Act are headwaters, and accordingly, this Act has no effect on the appropriation or adjudication of waters within the State of Montana under applicable law.

(b) RULES OF CONSTRUCTION.—Nothing in this Act is intended or shall be construed:

(1) to affect the downstream appropriation or adjudication of water;

(2) to affect existing water rights as provided under Montana state law;

(3) to affect the determination of express or implied reserved water rights as determined under other laws;

(4) as establishing a precedent with regard to any future wilderness designations or any interpretation of any other Act or wilderness designation.

**SEC. 5. RELEASE TO NONWILDERNESS MULTIPLE USE.**

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has adequately met the wilderness study requirements of Public Law 94–557;

(2) the Land and Resource Management Plans and associated Environmental Impact Statements (hereinafter referred to as "Land and Resource Management Plans") for all the National Forests in the State of Montana have been completed as required by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976;

(3) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas; and

(4) the Congress has made its own examination of National Forest System roadless areas in the State of Montana and of the environmental and economic impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress determines and directs that—

(1) without otherwise passing on the question of the legal and factual sufficiency of the Land and Resource Management Plans and their associated environmental impact statements for National Forest System lands in the State of Montana completed prior to the enactment of this Act, prior to the revision of such Plans, decisions to allocate roadless areas to wilderness or nonwilderness categories, and the environmental analyses directly related to such allocations shall not be subject to judicial review:

(A) *Provided, however,* That, except for decisions allocating lands to wilderness and nonwilderness categories, nothing in this section shall preclude judicial review of Department of Agriculture decisions implementing such Plans or decisions made concerning the management of National Forest lands subsequent to their allocation to wilderness and nonwilderness categories:

(B) *Provided further,* That, except for decisions allocating lands to wilderness and nonwilderness categories, nothing in this section shall preclude judicial review of Forest Service regional guides and other departmental policies of general applicability, nor prevent a court from invalidating forest planning decisions which fail to comply with applicable law;

(2) except as specifically provided in sections 3, 6, 7, 8, and 9 of this Act and in Public Law 95–150, with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture under Public Law 94–557, the unit plans that were in effect prior to completion of RARE II, the 1978 Forest Plan for the Beaverhead National Forest, and the Land and Resource Management Plans, that such reviews shall be deemed an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the Land and Resource Management Plans, but shall review the wilderness option when such plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless prior to that time the Secretary finds that conditions in a unit have significantly changed;

(3) those National Forest System lands in the State of Montana referred to in paragraph (2) of this subsection which were not designated as wilderness, special management, national recreation or wilderness study areas by this Act shall be managed for multiple use in accordance with land and resource management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, and those areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial Land and Resource Management Plans;

(4) if revised Land and Resource Management Plans for the National Forest System lands in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Montana for purposes of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Foreign Management Act, the term "revision" shall not include an amendment to a land and resource management plan.

(d) Except as where specifically provided elsewhere in this Act, the provisions of this section shall also apply to those National Forest System roadless lands in the State of Montana which are less than five thousand acres in size.

(e) Notwithstanding the provisions of paragraph (b)(2) of this section, the requirements of Public Law 95–150 are deemed to be satisfied with respect to the Sapphire and Middle Fork of the Judith Wilderness study areas.

**SEC. 6. SPECIAL MANAGEMENT AREAS.**

(a) For the purposes of conserving, protecting and enhancing the exceptional scenic, fish and wildlife, biological, educational and recreational values of certain National Forest System lands in the State of Montana, the following designations are made:

(1) The Mount Helena National Education and Recreation Area located in the Helena National Forest, comprising approximately three thousand nine hundred acres, as generally depicted on a map entitled "Mount Helena National Education and Recreation Area—Proposed", dated September 1991.

(2) The Hyalite National Education and Recreation Area located in the Gallatin National Forest, comprising approximately eighteen thousand nine hundred acres, as generally depicted on a map entitled "Hyalite National Recreation and Education Area—Proposed", dated September 1991.

(3) The Northwest Peak National Recreation and Scenic area located in the Kootenai National Forest, comprising approximately sixteen thousand seven hundred acres, as generally depicted on a map entitled "Northwest Peak National Recreation and Scenic Area—Proposed", dated September 1991.

(4) The Buckhorn Ridge National Recreation Area located in the Kootenai National Forest, comprising approximately twenty thousand acres, as generally depicted on a map entitled "Buckhorn Ridge National Recreation Area—Proposed", dated September 1991.

(5) The Tenderfoot/Deep Creek National Recreation Area located in the Lewis and Clark National Forest, comprising approximately fifty thousand acres, as generally depicted on a map entitled "Tenderfoot/Deep Creek National Recreation Area—Proposed", dated November 1991.

(b) The Secretary shall file the maps referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on interior and Insular Affairs, United States House of Representatives, and each such map shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in such maps may be made. Each such map shall be on file and available for public inspection in the office of the Chief of the Forest Service and the office of the Region I Forester.

(c)(1) Except as otherwise may be provided in this subsection, the Secretary shall administer the areas designated in subsection (a) so as to achieve the purposes of their designation as national recreation areas in accordance with the laws and regulations applicable to the National Forest System.

(2)(A) Except as provided in subparagraph (B), all federally owned lands within the areas designated in subsection (a) are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(B) The Secretary, under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the areas designated in subsection (a) in the

manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the mineral leasing laws, if he finds that such dispostiion would not have significant adverse effects on the administration of the recreation areas.

(C) Nothing in this subsection shall affect valid existing rights within the areas designated in subsection (a).

(3) Management activities may be permitted by the Secretary if compatible with the purposes for which the areas are designated: *Provided*, That nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(4) Where the Secretary determines that such use is compatible with the purposes for which an area is designated, the use of motorized equipment shall be permitted in the areas subject to applicable law and applicable land and resource management plans.

(5) The grazing of livestock, where established prior to the date of enactment of this Act shall be permitted to continue subject to applicable law and regulations of the Secretary.

(d) The Secretary shall manage the Mount Helena and Hyalite National Education and Recreation Areas with a focus on education. All management activities shall be conducted in a manner that provides the public with an opportunity to become better informed about natural resource protection and management.

(e) Those areas established pursuant to subsection (a) shall be administered as components of the national forests wherein they are located. Land and resource management plans for the affected national forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, shall emphasize achieving the purposes for which the areas are designated.

**SEC. 7. ELKHORNS NATIONAL RECREATION AND WILDLIFE AREA.**

(a)(1) The area of the Helena and Deerlodge National Forests comprising approximately one hundred seventy-five thousand seven hundred acres, as generally depicted on a map entitled "Elkhorns National Recreation and Wildlife Area—Proposed", dated September 1991, is hereby designated as a national recreation and wildlife area and shall hereafter be managed as a national recreation area that emphasizes enhancement of big game habitat. Except as otherwise provided in this section, the Secretary shall administer the area so as to achieve the purposes of its designation as a national recreation and wildlife area. Where compatible with such emphasis, and consistent with applicable law and applicable land and resource management plans, management also shall provide for recreational opportunities (including, but not limited to, opportunities for motorized recreation) and the maintenance and enhancement of habitat for nongame species. Hunting shall be permitted within the area subject to applicable State and Federal law.

(2) Those lands within the Elkhorns National Recreation and Wildlife Area designated as "Elkhorns-2" on the map referenced in paragraph (1) shall, notwithstanding any other provision of this section, remain roadless. Motorized equipment may be used by the Secretary, or other public agencies with the approval of the Secretary, after public notice and opportunity for comment and a finding by the Secretary that such use is required for habitat improvement for fish and wildlife. Any area disturbed by such motorized equipment shall be restored to contour and revegetated with appropriate native plant species as expeditiously as possible.

(b) The Secretary shall file the map referred to in this section with 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, and the map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in the map may be made. The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, all federally owned lands within the area designed as "Elkhorns-2" are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(d) Management activities may be permitted by the Secretary if compatible with the purposes for which the Elkhorns National Recreation and Wildlife Area is designated: *Provided*, That nothing in this section shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(e) The Elkhorns National Recreation and Wildlife Area established pursuant to this section shall be administered as a component of the Helena and Deerlodge National Forests. Land and resource management plans for these National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, shall emphasize achieving the purposes for which the area is designated.

**SEC. 8. WILDERNESS STUDY AREAS.**

(a) DESIGNATION.—The following areas are hereby designated as wilderness study areas and shall be managed in accordance with the provisions of this section:

(1) Certain lands in the Custer National Forest, comprising approximately seventeen thousand acres, as generally depicted on a map entitled "Line Creek Plateau Wilderness Study Area—Proposed", dated September 1991.

(2) Certain lands on the Gallatin National Forest, comprising approximately twenty-one thousand five hundred acres, as generally depicted on a map entitled "Sawtooth Mountain Wilderness Study Area—Proposed", dated September 1991.

(3) Certain lands in the Lolo National Forest which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Sheep Mountain Wilderness Study Area—Proposed", dated November 1991.

(4) Certain lands in the Flathead National Forest which comprise approximately thirty eight thousand acres, as generally depicted on a map entitled "Thompson-Seton Wilderness Study Area—Proposed", dated November 1991.

(b) Not later than five years after the date of enactment of this Act, the Secretary shall submit 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 containing recommendations as to whether the areas designated in subsection (a) should be added as components of the National Wilderness Preservation System.

(c)(1) Subject to valid existing rights and except as provided in paragraph (2), the wilderness study areas designated in subsection (a) shall be managed to protect their suitability for inclusion in the National Wilderness Preservation System for a period of seven years from the date of enactment of this Act. At the end of such seven-year period, the areas shall be managed, subject to valid existing rights, in accordance with the applicable land and resource management plans.

(2) Subject to valid existing rights, the Thompson-Seton Wilderness study area shall be managed to protect its suitability for inclusion in the National Wilderness Preservation System until Congress determines otherwise.

(d) The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, United States House of Representatives, and the Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service and the Region I Forester.

**SEC. 9. BADGER-TWO MEDICINE AREA.**

(a)(1) Subject to valid existing rights, all federally owned lands as depicted on a map entitled "Badger-Two Medicine Area", dated September 1991, comprising approximately one hundred sixteen thousand six hundred acres, are withdrawn from all forms of entry, appropriation, and disposal under the mining and public land laws and from disposition under the geothermal and mineral leasing laws. Until otherwise directed by Congress, the Secretary shall manage this area so as to protect its currently existing wilderness qualities.

(2) Nothing in this section shall preclude the gathering of timber by the Blackfeet Tribe (the "Tribe") in exercise of valid treaty rights within the Badger-Two Medicine Area.

(3)(A) With respect to oil and gas leases on Federal lands within the Badger-Two Medicine Area, no surface disturbance shall be permitted pursuant to such leases until Congress determines otherwise.

(B) Notwithstanding any other law, the term of any oil and gas lease subject to the limitations imposed by this section shall be extended for a period of time equal to the term that such limitation remains in effect.

(b) The Secretary shall conduct a review of this area in accordance with the Wilderness Act of 1964 and the following provisions. Not later than five years after the date of enactment of this Act, the Secretary shall report his findings to Congress. In conducting this review:

(1) The Secretary shall establish a committee composed of representatives of the Blackfeet Tribal Business Council, the Blackfeet Tribal traditionalists, the National Park Service, and representatives of the user public including environmental groups and representatives of user industry groups (the "committee"). The committee shall regularly advise the Secretary during the preparation of the report required in subsection (b) and submit its findings to Congress concurrently with those of the Secretary.

(2) Special consideration shall be given to the religious, wilderness and wildlife uses of the area, taking into account any treaties the United States has entered into with the Blackfeet Nation.

(3) In consultation with the committee, the Secretary shall establish a process to provide information to the Tribe and interested public about options for future designation of the Badger-Two Medicine Area.

**SEC. 10. PLUM CREEK LAND EXCHANGE—PORCUPINE AREA.**

(a) IN GENERAL.—The Secretary shall, notwithstanding any other law, exchange lands and interests in lands with Plum Creek Timber, L.P. (referred to in this section as the "company") in accordance with this section.

(b) DESCRIPTION OF LANDS.—(1) If the company offers to the United States the fee title to approximately eight thousand one hundred thirty and sixty-seven one-hundredths acres of land owned by the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Porcupine Land Exchange", dated May 20, 1988, the Secretary of the Interior shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, convey by patent the fee title to approximately nine thousand one hundred eighty-one and seventy-four one-hundredths acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals as required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1980 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal oil and gas lease numbers 49432, 32843 and 55325; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary and the company.

(2) Upon termination or relinquishment of the leases referred to in paragraph (1)(B), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the county wherein the leased lands are situated.

(c) EASEMENTS.—At closing on the conveyances authorized by this section:

(1) In consideration of the easements conveyed by the company as provided in paragraph (2) of this subsection, the Secretary of Agriculture shall execute and deliver to the company easements over federally owned lands for such existing or future roads as are needed to provide the company, its successors and assigns, access to company-owned lands.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States easements over company-owned lands for such existing or future roads as are needed to provide the United States, and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this subsection shall be in the form customarily used by the Forest Service and cooperators for cost-shared roads in Road Right-of-Way Construction and Use Agreements.

(d) REVOCATION OF ORDER OF WITHDRAWAL.—The order of withdrawal contained in Executive Order No. 30-Montana 7-Phosphate Reserve, dated October 9, 1917 (960 acres, more or less), insofar as it applies to the lands conveyed by the United States in the transactions authorized by this section, is revoked.

(e) MAPS.—The maps referred to in subsection (b) shall be subject to such minor corrections as may be agreed to by the Secretary and the company. The Secretary of Agriculture shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of any correction made pursuant to this subsection.

(f) TIMING OF TRANSACTION.—It is the intent of Congress that the conveyances authorized by this section be completed not later than ninety days after the date of the enactment of this Act.

(g) FOREST LANDS.—All lands conveyed to the United States pursuant to this section shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

**SEC. 11. PLUM CREEK LAND EXCHANGE—GALLATIN AREA.**

(a) IN GENERAL.—The Secretary shall, notwithstanding any other law, acquire by exchange and cash equalization in the amount of $3,400,000, certain lands and interests in land of the Plum Creek Timber, L.P. (referred to in this section as the "company") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other land in the Gallatin National Forest in accordance with this section.

(b)(1) DESCRIPTION OF LANDS.—If the company offers to the United States the fee title to approximately thirty-seven thousand seven hundred fifty-two and fifteen one-hundredths acres of land owned by the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary of the Interior shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, convey by patent the fee title to approximately twelve thousand four hundred-fourteen and six one-hundredths acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 23290, 29230, 40389, 53670, 40215, 38678, 33385, 53736, and 38684; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary of Agriculture and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the country wherein the leased lands are situated.

(c) EASEMENTS.—At closing on the conveyances authorized by this section:

"(1) In consideration of the easements conveyed by the company as provided in paragraph (2), the Secretary shall execute and deliver to the company easements for such existing or future roads as are needed to provide the company, its successors and assigns, access to company-owned lands.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States easements over company-owned lands for such existing or future rights-of-way as are needed to provide the United States, and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this subsection shall be in the form customarily used by the Forest Service and cooperators for cost-shared roads in Road Right-of-Way Construction and Use Agreements.

(d) MAPS.—The maps referred to in subsection (b) are subject to such minor corrections as may be agreed upon by the Secretary and the company. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of any corrections made pursuant to the subsection.

(e) TIMING OF TRANSACTION.—It is the intent of Congress that the conveyances authorized by this section be completed within ninety days after the date of enactment of an Act making the appropriation authorized by subsection (g).

(f) FOREST LANDS.—All lands conveyed to the United States pursuant to this section shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section the sum of $3,400,000, which amount the Secretary shall, when appropriated, pay to the company to equalize the value of the exchange of land authorized by this section.

**SEC. 12. SEVERED MINERALS EXCHANGE.**

(a) FINDINGS.—The Congress finds that—

(1) underlying certain areas in Montana described in subsection (b) are mineral rights owned by subsidiaries of Burlington Resources, Incorporated (referred to in this section as the "company");

(2) there are federally owned minerals underlying lands of the company lying outside those areas;

(3) the company has agreed in principle with the Department of Agriculture to an exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable that an exchange be completed within two years after the date of enactment of this Act.

(b) DESCRIPTION OF MINERAL INTERESTS.—(1) Pursuant to an exchange agreement between the Secretary and the company, the Secretary may acquire mineral interests owned by the company or an affiliate of the company thereof underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in fractional sections adjacent to those areas.

(2) In exchange for the mineral interests conveyed to the Secretary pursuant to paragraph (1), the Secretary of the Interior shall convey, subject to valid existing rights, such federally owned mineral interests as the Secretary and the company may agree upon.

(c) EQUAL VALUE.—(1) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information.

(2) To ensure that the wilderness or other natural values of the areas are not affected, a formal appraisal based upon drilling or other surface disturbing activities shall not be required for any mineral interest proposed for exchange, but the Secretary and the company shall fully share all available information on the quality and quantity of mineral interests proposed for exchange.

(3) In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and the company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) IDENTIFICATION OF FEDERALLY OWNED MINERAL INTERESTS.—(1) Subject to paragraph (2), mineral interests conveyed by the United States pursuant to this section shall underlie lands the surface of which are owned by the company.

(2) If there are not sufficient federally owned mineral interests of approximately equal value underlying company lands, the Secretary and the Secretary of the Interior may identify for exchange any other federally owned mineral interest in land in the State of Montana of which the surface estate is in private ownership.

(e) CONSULTATION WITH THE DEPARTMENT OF THE INTERIOR.—(1) The Secretary shall consult with the Secretary of the Interior in the negotiation of the exchange agreement authorized by subsection (b), particularly with respect to the inclusion in such an agreement of a provision calling for the exchange of federally owned mineral interests lying outside the boundaries of units of the National Forest System.

(2) Notwithstanding any other law, the Secretary of the Interior shall convey the federally owned mineral interests identified in a final exchange agreement between the Secretary of Agriculture and the company and its affiliates.

(f) DEFINITION.—For purposes of this section, the term "mineral interests" includes all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) ENVIRONMENTAL LAW.—The execution and performance of an exchange agreement and the taking of other actions pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment within the meaning of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), nor shall they require the preparation of an environmental assessment under this Act.

**SEC. 13. LANDS ADMINISTERED BY BUREAU OF LAND MANAGEMENT.**

(a) FINDING.—The Congress has reviewed the suitability of the Bitter Creek Wilderness Study Area (MT-064-356, BLM Wilderness Study Number) and approximately two thousand five hundred acres of the Axolotl Lakes Wilderness Study Area (MT-076-069, BLM Wilderness Study Number) as generally depicted on a map entitled "Axolotl Lakes WSA", dated March 1990, for wilderness designation and finds that those lands have been sufficiently studied for wilderness pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) DIRECTION.—The areas described in subsection (a) shall no longer be subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to management in a manner that does not impair suitability for preservation as wilderness.

(c) Administrative jurisdiction over those lands designated as wilderness pursuant to paragraphs (3) and (26) of section 3(a) of this Act, and which, as of the date of enactment of this Act, are administered by the Bureau of Land Management, is hereby transferred to the Forest Service.

**SEC. 14. MISCELLANEOUS PROVISIONS.**

(a) Those lands comprising the Rattlesnake National Recreation Area and Wilderness, as designated in Public Law 96-476 are hereby redesignated as the "Rattlesnake National Education and Recreation Area and Wilderness".

(b) Those lands comprising approximately twenty four thousand acres, as generally depicted on a map entitled "Gibson Reservoir Withdrawal Area—Proposed", dated November 1991, are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(c) All acreages cited in this Act are approximate and in the event of discrepancies between cited acreage and the lands depicted on referenced maps, the maps shall control.

(d) It is the policy of Congress that the Forest Service acquire and maintain reasonable public access to National Forest System lands in the State of Montana.

**SEC. 15. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated—

(1) such sums as are necessary for the development of a wilderness education and ranger training complex at the Ninemile Ranger Station, Lolo National Forest, Montana; and

(2) such sums as are necessary to carry out this Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from Montana [Mr. MARLENEE] will be recognized for 30 minutes, and the gentleman from Minnesota [Mr. VENTO] will be recognized for 30 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Montana [Mr. MARLENEE].

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

Mr. Chairman, my amendment is identical to the Senate-passed Baucus-Burns bill. If it is passed by the House today, the process is greatly expedited. We have no conference. we have no problem in ironing out the differences. We have a law as soon as the President signs the bill.

Any other version of this bill, such as the Vento-Williams, would be sent to conference and would kill the Montana wilderness bill effort. Although I pledge myself to attend the conferences necessary, because the differences in these versions cannot be settled in the 3 days that are left, it is my sincere feeling that we will, in fact, be unable to pass the bill. The passage of any other version but the one that I offer today spells the death knell and moves Montana wilderness legislation one step closer to the grave.

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

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

Mr. Chairman, I would just suggest that the gentleman from Montana in general debate referred to me as being unyielding, uncompromising, and unwilling to work on things. I would suggest that his opening comments introducing the measure that he has and has a right to do, and I respect his right to do so, did not sound like an offer of good will or a willingness to compromise and to work out whatever differences that might exist. I regret that, and I hope that that is not actually the result.

Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS], in opposition to the Marlenee amendment.

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the Montana wilderness bill as reported by the Senate is replete with mistakes. In one section the Senate Marlenee bill adds lands to a wilderness area that does not exist; in another section the Senate bill adds lands in Montana to a wilderness area located in Wyoming; in another section of the bill management of Bureau of Land Management lands that do not exist are transferred to Forest Service, television towers are placed in wilderness in other Senate sections.

If this were not enough, the Senate Marlenee bill, because it did not go through even 1 minute of public hearings directly on its proposals, does not include critical adjustments in area designations crucial to both jobs and continued recreational opportunities. These adjustments were made by the House Interior version of this bill because we listened to those Montanans who testified not once but twice in the House. Let me share just a few examples with you:

The Senate bill does not protect recreation. In fact the House version of the wilderness bill closes fewer motorized recreation trails than does the Senate bill. In just one area in Montana the Senate bill closes as many as 17 motorized access trails in an area called the West Bighole. Folks from Beaverhead County including the county commissioners, local ranchers, and local conservationists were stunned to find that the Senate had ignored a longstanding agreement that set aside the West Bighole area as a combination of wilderness and recreation area. The House Interior bill recognizes that agreement and opens those trails and still protects critical elk habitat as wilderness.

In a small area just above the town of West Yellowstone, close to the western entrance to Yellowstone Park, the Senate bill included, in wilderness, lands in the earthquake area that the West Yellowstone Chamber of Commerce, local businesses, and the mayor

and city council asked not be designated because of the area's critical importance to local snowmobilers. The House bill deletes those lands and still designates a significant portion of the area as wilderness.

In a beautiful pristine area just outside of Hamilton, MT, there is a range of mountains called the Sapphires which were set aside in 1976 by then Senator Lee Metcalf in a management category that preserved the areas wilderness characteristics but still allowed motorized activites to continue. The Senate bill placed wilderness in this area in a way that satisfied neither the conservationists nor the motorized uses, the House bill returns that area to its current status.

I could go on, but instead lets look at the Senate bill's protection of jobs.

It has been the longstanding policy of the Montana delegation not to place wilderness designations over patented mining claims. The Senate bill mistakenly places mining claims in wilderness.

Just before the House considered the Senate bill I concluded land trade negotiations with the current owners of a significant amount of checkerboard land all along the Gallatin Mountain range just north of Yellowstone Park. Since 1925, it has been the desire of local conservationists, the land owner, and the Federal Government to, because of the critical importance of these lands to the wildlife of Yellowstone Park, consolidate the lands in the Gallatin range into Federal ownership and find lands elsewhere suitable for harvest to allow the continued operation of the local mill in Belgrade, MT. In fact if a land trade is not accomplished the local mill is sure to close or be forced into taking timber from these critical wildlife areas. The Senate bill does not contain the new agreement, but the House Interior bill does.

The owner of the Maverick Mountain Ski Hill testified that if there was not an adjustment to the boundary of an existing wilderness study area then he would not be able to continue the operation of his local ski hill. He worked with local conservationists to come up with a solution to his problem, and the Senate Marlenee bill does not enact that solution, the House bill does.

Now that it is clear that the Senate bill does not protect jobs or recreation, let's examine if it protects Montana water rights.

Recently the Federal courts have found that lands designated under the 1964 Wilderness Act carry with that designation a Federal water right for the purposes for which the area was set aside. My colleague has made a great deal about how he wants to protect Montana water users from the designation of a Federal water right in wilderness. Does the Senate bill repeal the current court action? No. Does it make clear what rights Montanans have in regard to this Federal right? No. What it does do is sidestep the issue and leave the determination of Montanans rights to the whim of the Federal courts. The House bill while leaving in place the Federal water right for wilderness specifically declares that the Federal right is junior to all existing Montana rights and any dispute about those rights must be settled in Montana's water courts. The House Interior bill clearly protects Montana's water users better than the Senate bill.

There is one other area in which the House bill is superior to the Senate and this is in an area that my colleagues from the other side of the aisle do not mention much. This is in the protection of the last of our great wild lands and critical game habitat. The Senate bill omitted from wilderness designation areas that have for years been advocated for protection due to their beauty and importance. Areas like the Whitefish Range adjacent to Glacier National Park, Roderick Mountain in the remote Yaak Valley, Charlie Russell country in the Judith Basin, and Indian sacred ground and wildlife habitat in the Crazy Mountains. The Senate bill also paid little attention to those lands that hunters have for decades advocated for protection because of their importance to the survival of our great game herd. Montana currently has the longest and best elk hunting seasons in the world. Without protection of areas important to winter range, calving areas, and remaining cover what is in store for Montanans is less opportunity and eventually the same type of hunting lottery system all other States now experience.

Lands along the game ranges of the Rocky Mountains front, along the Continental Divide in places like Nevada Mountain, in the critical areas of places like Cowboys Heaven and Trout Creek, the Senate bill simply ignored the findings of game managers and hunters.

The Senate protection of critical fisheries and spawning areas, important river drainages, and essential headwaters was not much better and the House heard from anglers from across Montana who called for the protection of areas like Whale Creek and the Flints.

I believe I have made my point. It is simply the act of political expediency for those who are calling for enactment of the Senate bill without amendments. This cannot be done, it should not be done. It is also tiresome to hear those who called for the last RARE II veto to idly threaten another one. There is only one way to resolve these issues and avoid the need for a veto and that is to pitch in, compromise, and do your homework. I am only sorry that my colleague from Montana has chosen to date to demagogue, divide, frighten, and demand solutions that are neither farsighted nor practical.

I urge that we get on with passage of the House Interior bill and set aside the posturing for 30 second spots and political advantage.

□ 1530

Mr. MARLENEE. Mr. Chairman, well, again it is time to move the shells to see what is under them. That is what I shall attempt to do.

The chairman of the Subcommittee on Public Lands said "we are not going to have it, we are not going to have the Montana wilderness bill compromise, I am going to see to that in committee." Obviously, my colleague, PAT WILLIAMS, has agreed with that.

But I think he has made a misstatement when he has said that every group that has spoken on the bill has opposed it. Groups like the Montana Stock Growers, Montana Farm Bureau, and this letter to the editor that appeared in most major Western newspapers that has some 60 different groups in it.

The letter referred to is as follows:

WILDERNESS IS A MONTANA ISSUE, OPEN LETTER TO MONTANA'S CONGRESSIONAL DELEGATION

No issue is more vital to Montana's future than reasonable access to our natural resources. That includes how much federal land is placed in wilderness.

This is a critical time. The elected officials of Montana must protect access to those resources for the benefit of working families and the businesses—small and large—that employ them.

Montana cannot afford to have its natural resources "nationalized" through unreasonable increases in wilderness acreage. Remember, we already have 3.4 million acres set aside.

Long before anyone heard of national organizations like the Audubon Society, the Sierra Club, the National Wildlife Federation, the Wilderness Society, and movie and television celebrities, Montanans were building homes, businesses and communities.

Montana loggers, miners, oilmen, ranchers and farmers, retail and wholesale people were building Montana when these modern day "discoverers" didn't know we existed. Montana workers and businesses paid the taxes that built the streets, the parks, the communications and transportation infrastructure, the water storage facilities and the schools and universities that educated us all and helped make Montana the "last best place". They still do.

We are all Montanans. We do not feel guilty about harvesting trees, extracting minerals, using water, and raising livestock and grains. We respect our relationship with nature when we hunt, fish, and ride our snowmobiles, trailbikes and 4 x 4's.

Wilderness designation isn't just saying NO to logging, mining, oil and gas extraction and grazing. Wilderness means saying goodbye to snowmobiling, mountain biking, trail bike riding, wheelchairs, motorized hunting access—any mechanized function whatsoever.

The Forest Service has recommended only 806,000 acres of new wilderness compared to the 1.2 million already proposed. The LAST thing Montana needs is for Congress to add more acres to the Baucus-Burns Wilderness bill.

Our Congressional delegation must stand up for Montana's working people and Montana's businesses. The Eastern Montana College and the Montana Chamber of Commerce polls reflect one opinion: 71.9% of Montanans believe there is already enough or too much wilderness in our state.

WHAT ELSE DO MONTANANS WANT?

No more wilderness studies. We want an end to the wilderness debate.

To protect Montana's water rights. To be sure that all Montana waters are adjudicated under Montana law, not by Congress.

At least a ten year interval before the Forest Service is required to provide new wilderness recommendations. Otherwise some Montana forests will be stampeded into drafting new wilderness recommendations as soon as next year.

The ability to manage our public resources * * * not lock them up.

Consideration of local government needs and concerns in making land use decisions that impact the economic stability of communities.

We the undersigned, recognize that there will be more wilderness. But we don't need crippling acreage increases and legislation that satisfies a Hollywood agenda. We need a truly Montana wilderness bill.

This message is not new. It is a message our elected officials have heard time and time again. Some have listened. Some have not.

It's 1992. It's time to listen.

Those 2,600 people that you saw on the poster who are demonstrating in the streets said, "We don't want Vento-Williams." Are we listening?

Maybe there is a reason that it has taken 12 years to try to resolve that question about wilderness in the State of Montana. Maybe that reason is the fact that Montanans think that we have had enough wilderness unless we could end the conflict, unless we can end the conflict and go back to the professional management whereby we provide for recreation and jobs.

My colleague, PAT WILLIAMS, said he was going to protect one of the beautiful areas and that he had in fact included it in wilderness, and that was the Roderick Mountain area of Lincoln County that he lists in the Vento-Williams bill.

Eighty-five percent, 21,200 acres are suitable for timber harvesting in this area, according to the U.S. Forest Service. With 20 percent unemployment in Lincoln County, tell them that you need to protect this area even if it means the loss of those jobs. Stumpage value of this timber at today's prices, are nearly $28 million. That is enough to keep roughly 300 people employed for 2 years. It would provide $4 million to $5 million for county roads, and $2 million to $3 million for the school systems in that particular area.

Now let us move to Sanders County. There it eliminates critical revenue again for schools and roads. Designation of Trout Creek in Vento-Williams would cut off from harvest 24,200 acres of suitable timber, 219 million board feet, according to the Forest Service. This timber has stumpage value of $44 million at today's prices. That is enought to provide 700 jobs in Sanders County for 2 years, according to the University of Montana.

Well, 700 jobs here, 300 jobs there, and 500 jobs somewhere else, does that matter to Liz Claiborne and Whoppie Goldberg and those people who want to expand the Montana wilderness? I think they are pretty secure in their haven. They can come to Montana and make it a playground. But those people in the mills and in the hills, they have to depend on the policies that we put out of this U.S. Congress. That is unfortunate because this Congress is loaded and steamed with those who want to lock Montana up without balance.

Federal timber receipts for that area in Sanders County, on this harvest, would mean $7.3 million for county government and $3 million for schools.

We have just had a great debate in the State of Montana at the State legislature on how we are going to fund our school system and infrastructure within the State. Do we increase taxes? No, they do not want to increase taxes. Do we want to cut services? No, they do not want to cut services. But right here in this body, on that side of the aisle, and the environmentalists are saying, "But we can't use those resources for education, for jobs, for the economy."

Mr. Chairman, I received a letter just now from the executive office of the President, Office of Management and Budget. The administration opposes House passage of S. 1696 as reported by the House Interior and Insular Affairs Committee. The administration supports S. 1606 as passed by the Senate.

The statement of administration policy follows:

STATEMENT OF ADMINISTRATION POLICY

The Administration opposes House passage of S. 1696, as reported by the House Interior and Insular Affairs Committee. The Administration supports S. 1696, as passed by the Senate. During further congressional consideration of the bill, the Administration will seek the following amendments:

Eliminate the Federal reservation of water rights for wilderness purposes.

Strengthen the provision to "release" for multiple-use management those roadless areas not designated as wilderness under the Forest Service's management plan. This would exclude from judicial review the initial decisions in the Forest Plans to recommend certain areas for wilderness designation and allocate others for multiple-use management. Such release language would be consistent with S. 1696, as passed by the Senate.

Modify certain wilderness areas to be more consistent with S. 1696, as passed by the Senate.

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

Mr. VENTO. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise in opposition to this amendment. It is flawed in four critical ways:

First, it leaves out hundreds of thousands of acres of Montana's wildlands allowing these very scenic and ecologically sensitive areas to be developed. The Big Sky country would become the Small Sky country based on this approach. Areas that the Interior Committee bill protects that the Marlenee amendment would delete include Cowboy's Heaven, the Crazy Mountains, the Rocky Mountain Front, Nevada Mountain, Flint Creek, and the Yaak. This amendment also contains the flawed release language passed by the Senate which prohibits judicial review of Forest Service management. Citizens would be prevented from appealing forest service decisions to the courts.

The Marlenee substitute seeks to have the House adopt the flawed Senate water rights language which does not give wilderness a Federal reserved water right. All recent wilderness bills passed by Congress have included expressly giving wilderness a Federal reserved water right. This amendment is inconsistent with these other wilderness bills which have been signed into law and would make Montana wilderness areas second class areas with less protection than wilderness areas in other States. Wilderness needs water. The trees, vegetation, wildlife, and fish of the wilderness ecosystem obviously cannot exist without it. To deny the ecosystem's right to have water is to deny the ecosystem's right to exist.

□ 1540

Giving wilderness water does not threaten in any way existing water users in Montana. It would be junior to the rights of existing users and, it would be adjudicated in the State of Montana.

The wilderness areas in this bill are headwaters and are a nonconsumptive use. In other words, water will continue to flow out of the wilderness to downstream users. In fact, designating these areas as wilderness ensures that this water comes to Montana users in a clean, high quality state. Furthermore, the wilderness water right will be junior to that of all existing water right holders who, thus, will have precedence over wilderness in any water disputes.

This amendment also sunsets wilderness study areas. It would open congressionally designated wilderness study areas to development long before Congress has acted to determine how they should be managed. In this bill, we maintain some 900,000 acres of land as study areas because we have been unable to resolve the final disposition of these lands. Opening them up to development simply because there has not been action because the previous wilderness bill was vetoed, would put the premium on stalling legislation.

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

Mr. VENTO. I will yield to the gentleman from Montana briefly.

Mr. MARLENEE. Yes, Mr. Chairman, we have had study areas and we have

had some of those study areas since Lee Metcalf passed the first bill and they are still in this proposal, the gentleman's proposal.

Does the gentleman propose to sunset those so we have a date certain when the finality of that occur?

Mr. VENTO. Reclaiming my time, Mr. Chairman, my concern is that we have been unable to resolve those issues. I think the Congress has to come back and address those. I understand the gentleman's frustration with that, but we are releasing 3½ million acres in the bill.

Mr. Chairman, the Marlenee amendment is just a rehash of the flawed Senate measure that has been roundly criticized by the public and which has been rejected by the Interior Committee. I hope the House will reject it.

We cannot rubber stamp the Senate's work when they have done such a flawed job.

In fact, the gentleman from Montana [Mr. WILLIAMS] helped me tailor our bill to respond to numerous concerns that arose after the measure passed the Senate. We minimized the impact. While the acreage numbers increased, the conflicts went down. This is good policy and good work, deliberate, careful, and thorough. The Senate measure has serious flaws. They tried, and I will give them credit for that, and credit to my colleague, the gentleman from Montana [Mr. MARLENEE], but today let us support the better product, the Williams substitute, and vote "no" on the eclipsed Senate version. We have a better plan, a better policy.

Vote "no" on this substitute.

Mr. MARLENEE. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from Alaska [Mr. YOUNG], the ranking member of the subcommittee, whom I greatly respect, and who has dealt with extensive wilderness and fish and wildlife areas.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding me this time.

I have been listening to this debate from both sides of the aisle now in my office watching the television. I know by the rules we are not to mention the television audience, but in reality there are about 17 million Americans watching it today.

I would like to suggest that this issue is even beyond Montana. The issue, as the gentleman from California [Mr. DANNEMEYER] has brought forth, is a battle between philosophies in America and opportunities for the future of Americans.

It is those on that side of the aisle primarily that carry the spear for the environmental groups. They carry the spear for the elitists, the Ted Turners, for Montana, for Whoopi Goldberg, Liz Claiborne, those that have the money and the wealth derived from inundating industries, that go out and have their little niche in the great State of Montana, without any consideration for those people who are weather beaten and face the elements, and yes, their forefathers fought the enemies and established themselves there; no consideration at all for those people, to make Montana into a wilderness area supposedly for the future generations.

Damn the people here now. We don't care. We're only thinking about the future generations.

That deeply disturbs me, because in my State I watched the same body set aside 147 million acres of land, supposedly for the future generations.

By the way, it has the most oil, the most minerals, the most timber and all those other good things; set it aside—and for whom? Again these same elitists, those with money in their pockets, not the guy that has to work and ride that horse and herd the cattle, not the person who has to cut the trees down and provide the money for the shoes and braces for his children's teeth, not those people, but for the elitists.

It is ironic to me today, we watch and we hail the great collapse of the Soviet Empire. I just read in the paper today they are issuing stock to privatize Russia.

And what are we doing in this body, especially from that side of the aisle, the liberal Democrats, by the way, led by the chairman, the gentleman from Minnesota [Mr. VENTO] in the Congress, in the Interior Committee of which I am the ranking member.

Every bill that comes before it takes jobs away from Americans, takes jobs away from the people in those States, and he says to me, he says to you, "Yes, we have received thousands of letters to take and expand the bill beyond what we have today. This is a compromise."

Nonsense. Who are those letters from? Sierra Club, Friends of the Earth, trustees, Audubon Society, all these other groups of people that absolutely do not represent the working people of America.

I think, fellow Americans, you had better wake up. There is an elitist movement in this country to take away the availability of opportunity for Americans who do work.

I know the gentleman from California [Mr. DANNEMEYER] showed a map over here. We own more land as the United States of America today than any other country other than China and Russia by the Federal Government, that produces nothing.

I have to remind you, the owner of land in the government produces no taxes, produces no jobs. It does nothing. It does produce control for the elitist groups.

Now, we are talking about the substitute by the gentleman from Montana [Mr. MARLENEE]. If you want a wilderness bill, I am going to suggest to my colleagues that you support his proposal that passed the Senate with two Senators.

I am not happy with that proposal, to be very honest with you, but you certainly do not support the Vento-Williams bill, no way.

This is probably the worst piece of legislation, and by the way, for those people in Montana, remind yourselves, if you think this solves the problem, you have got another thought coming, because I heard that same argument when they locked up 147 million acres of land in Alaska in 1980. "We have solved the problem. We're going forward. We will no longer revisit this issue."

This gentleman from Minnesota revisited it again and took an additional 5½ million acres into wilderness and took away, by the way, over 5,000 jobs.

Jobs. We keep hearing the Presidential candidate, Mr. Clinton, talking about jobs. We are going to train people and put them back to work—on and doing what? Selling hamburgers?

This country has not faced up to the fact that we have stopped producing.

It is ironic to me, the same bleeding heart liberals on that side of the aisle, the Democrat side of the aisle, talk about we have got to house the poor. We have to take and give housing to the poor. We have to make housing affordable, and then they turn around and say, "Can't take any trees down, can't find any iron to make steel."

What are we going to build them out of, plastics? We cannot drill any oil.

I am saying, what a hypocrisy to have a group of people say that we are going to solve the problems of Montana by passing the Vento-Williams bill. All you are doing, you will be back here 2 years from now with another bill to add more wilderness for Ted Turner, not for the people of Montana.

I say let us vote for the Marlenee substitute. If that goes down, let us vote against this whole turkey. Let us send it back where it belongs, back into the committee and recognize the rights of the people of Montana who need work and jobs and the right to make their decisions, not somebody from Minnesota or somebody from Pennsylvania that talks about we have cut 95 percent of our trees. Nonsense. We have more trees today than we had in 1900. That is nonsense. If you went into Pennsylvania and Indiana and Ohio, yes; but the West has protected their timber. We have done the job right.

Mr. VENTO. Mr. Chairman, I yield 4 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. Williams. Mr. Speaker, we have heard a lot, at least from two people on the other side, about all the out-of-State interference with this bill. The two gentlemen whose political adrenalin appears to be the most flammable on out-of-staters interfering in the Montana wilderness process are the

gentleman from California and the gentleman from Alaska.

□ 1550

Mr. Chairman, I am from Montana. As I said, almost all of the designations in this bill are in the congressional district which I am pleased to represent, and the underlying bill here is my bill. The areas that are so designated as either wilderness, or national recreation, or other were put in this bill at my urging, and I did it on behalf of, not some out-of-stater from Alaska, or California, or New York, or anywhere else, but on behalf of Montanans.

Let me note, my colleagues, that not only is the Senate bill flawed, not only does it contain both technical and substantial mistakes which must be corrected, but the sponsor of that bill here in the House, the gentleman from Montana [Mr. MARLENEE], has made statements which on their very face are incorrect and, I think, deserve a correction.

For example, just a few minutes ago he mentioned that there were 219 million board feet of timber in an area out our way called Trout Creek. There are not 219 million acres of board feet. There are 219 million acres of standing timber. It is very different, and we simply need to be accurate when we in this form try to convince our colleagues of the facts.

My colleague, the gentleman from Montana [Mr. MARLENEE], also entered into the RECORD the letter from a Montanan named Mr. Grosfield. I can understand that some Montanans, faced with the task of trying to figure out what is in this bill, quickly might not fully understand it. But I want to assure my colleague, Mr. MARLENEE, as well as Mr. Grosfield who wrote to him, his constituent, that the contents of Mr. Grosfield's letter are incorrect, at least as Congressman MARLENEE has stated them. Mr. Grosfield's private property is not surrounded by wilderness in the bill before us. No private land in this bill is surrounded by wilderness.

The gentleman from Montana [Mr. MARLENEE] went on to say, not quoting Mr. Grosfield, but rather laying his own thoughts before the House, that there was no support for putting the Crazy Mountains, which is the area in question here, close to where Mr. Grosfield lives, that there was no support for putting it in wilderness.

The Cree Indian Tribe in Montana supports formally putting it in wilderness, as we have done. The Billings Rod and Gun Club, for the purpose of protecting big game habitat, was encouraging me to declare wilderness area in the Crazies in the place where I live. Hundreds of people that live near the Crazies on the western side around a city called Livingston have petitioned to have wilderness designations in the Crazy Mountains.

The gentleman from Montana [Mr. MARLENEE] has placed an ad in the RECORD here today, or at least referred to a newspaper ad. That was an ad that a coalition of people in Montana paid for and had presented in the Montana newspapers. Every single member of that coalition has testified or written in opposition to the very bill that the gentleman from Montana [Mr. MARLENEE] brings today.

Mr. MARLENEE. Mr. Chairman, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in support of the Marlenee substitute, not because I am particularly involved with what is done in Montana, but because what is done in Montana sets precedent for what we do in the Western States with regard to wilderness.

Let me say again how important it is, how these policies are developed in our State.

More than 50 percent of the land belongs to the Federal Government. The decisions that are made by public land managers, that are made by this body and carried out by public land managers, affect, of course, the future of our States, affects the economy of our States.

I support wilderness. I think wilderness is a great idea for those areas that are uniquely fitted to wilderness. I am a little disappointed when I hear people speak as if, if it is not put in wilderness, it suddenly is developed and paved over. That is not the case. We have forests that surround all of the wilderness that are in multiple use that are not developed, but indeed, the resources there are compatibly used multiply. I think that is very important.

I am particularly interested and supportive of the Marlenee language because, No. 1, it recognizes the water language that I think is consistent with the States and the State constitutions when we entered into this federation and the States were given control over water. I think that is as it should be. It really should not be a problem. In wilderness the water rises to the top of wilderness areas. By definition water is not withdrawn in wilderness areas, water is not consumed in wilderness areas, so the notion that we have to have a reserved water right is not consistent with the facts, and this has been a struggle all along.

I say to my colleagues, "If you really want this bill passed in the Senate, then you really need the Marlenee substitute to do this."

The other is release language. The question is: "When you have a study area, you decide to put certain parts of it into wilderness; what do you do with the rest?" Unless there is specific release language that says the remainder will be managed in multiple use, then we go on with a gridlock in the future as to what can be done with it, and the fact is it becomes de facto wilderness because we have not put in the proper language.

Finally, Mr. Chairman, in the Vento language there is a study that is designed to be developed in the northern Rockies. I am not sure we know what the northern Rockies is. But I am not at all excited about Wyoming being included in a study designed in a Montana wilderness bill without any discussion or decisions on the part of Wyoming as to how that ought to be done.

So, Mr. Chairman, I simply rise to say that wilderness is an important aspect. There are some keys to it. One of them is the recognition of States rights in water. The other is the release language.

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

Mr. MARLENEE. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, my friends from Montana, I have been listening intently to this debate. It takes me back to 1984 when the issue before this House was the Oregon wilderness bill, and I recall many of the same arguments have been made today, and I want to reflect for a moment because of the same arguments that actually happened in Oregon.

Mr. Chairman, in that case the question was under the additional million acres of wilderness, and, if we did that, we are going to release 3 million acres for multiple use. The result of all of that has simply been, my colleagues, that there is no carrot on the stick of those who say they are going to release anything in Montana or in Oregon.

The result simply was this: We have an additional million acres in Oregon. That gives us 2 million acres of wilderness which is locked up forever. Of the 3 million left, with the advent of the spotted owl, with the intense interests from every State in the Union outside the West, we have literally locked up 3 million acres of land.

We are out of jobs in Oregon. There is no timber being harvested on the west side, most forests inside of our State, and we cannot even salvage timber on the east side where we have 3 million board feet of dead timber standing because preservationist groups say that is the way nature intended it.

I say to my colleagues, "Don't fall for the carrot on this stick. The water rights issue is an imperative, interesting and very difficult issue; no question about that. However I can guarantee you that, if you have a Federal prescribed water right at the headwaters of the Montana mountains, you will forever give up any kind of expansion, any kind of development, in the lower reaches and the valleys of Montana because that's simply the way it operates."

I listened to this question of compromise, and it seems to me that, if

two Senators from Montana, one Democrat and one Republican, and a gentleman from Montana [Mr. MARLENEE] have agreed to an issue, that seems like a compromise to me. That is three out of four Members of the delegation. I am not sure any group of people in any State could get three-quarters of their delegation to agree upon one position. Obviously Mr. MARLENEE has compromised with the Senate, and that issue is before us.

□ 1600

Beyond that, I have heard about the yearnings of passing something because Montana has been in this difficult debate, which it has been for so many years, and it seems to me that if we are going to pass anything in the late days of this session, we ought to do it without having to go to conference. It seems to me with the ending days of the session coming on the chance for a conference committee on this issue is probably impossible. It surely will be impossible to pass this bill if the President is going to veto the Vento-Williams version. That means we are going to continue this difficulty that everybody expresses and frustration into another session and on into the future, continuing to provide confusion in the State of Montana.

Mr. Chairman, all of those together would seem to me to allow us to support the gentleman from Montana [Mr. MARLENEE] in his effort. Let us put the Montana wilderness behind us. Let us go with the compromise with the Senate.

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

Mr. Chairman, I would urge opposition to the Marlenee amendment. As I think it has been pointed out, this version is flawed. The House has provided a better product, one that I think is more artfully crafted.

The fact is I think we really have an opportunity here to have a House voice in this particular process. I do not think anyone want to rubber stamp what the Senate has done based on the problems in their bill.

As I have said, the differences, while they may seem small to some in terms of the acreage involved for these conservation areas, it is absolutely essential we oppose this amendment because of the flawed sunset language for wilderness study areas, the inappropriate water language, dangerous release language.

I think we have a better product here. We have been deliberate and careful. I think the gentleman from Montana [Mr. WILLIAMS] has done careful work on this with his staff and with others in terms of this process.

Clearly all of us have a voice in the National Wilderness Preservation System. Today nearly one out of six acres of national forest lands are designated as wilderness. This is a very important classification. We have but two States remaining that have not had Statewide national forest wilderness bills passed since the RARE II study process began. One of these is Montana and 10 years has elapsed. Obviously the issue has become polarized, but I think we are close to completing this and doing it in the right way.

The other State is Idaho, which I hope we can work on in he next Congress.

Mr. Chairman, I would urge Members to advance this process and not rubber stamp the Senate proposal, especially with the flaws that have been pointed out in it.

Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, I do, as we move now to close debate on the Senate-Marlenee amendment, wish to make a couple of points for my colleague.

The first is that Montanans themselves want changes in the Senate bill. If they did not, if they had accepted that bill, then I would have gladly accepted it here in the House, because I tell my colleagues, and all who hear me will know what I am talking about, political expediency encouraged me to simply accept the Senate bill and be done with it. But for 6 months Montanans have, including the gentleman from Montana [Mr. MARLENEE], objected over and over again to parts of the Senate bill.

So we are trying to do here in this House today what Montanans overwhelmingly have asked us to do, and that is to change the bill.

Mr. Chairman, I also want my colleagues to understand this: both Senators have sent people to my office asking them to come and convince me to make changes in the bill that came from the Senate. I could delineate if time permitted what those changes are.

So the notion that three out of four people in the Montana delegation do not want changes is simply and factually inaccurate. Senator BAUCUS is somewhat more open about the changes that he wants. He has applauded this process in the House and said he recognizes the tradition and history of the Congress allowing each body to work its will on a bill. No wilderness bill, without exception, that has come from one body to the other has been accepted without some changes.

So we worked today in the best interests of Montanans and in the best of the history and tradition of this House, which says that this House and the Members of it have both the right and the duty to work their will on any legislation, particularly legislation of this importance.

Mr. Chairman, I want to thank again the gentleman from Minnesota [Mr. VENTO], and particularly my colleagues on both sides of the aisle, Republicans as well as Democrats, who have joined in this debate on the Marlenee substitute here this afternoon.

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

Mr. Chairman, reclaiming my time, I would say this is a national issue. Obviously whenever we make decisions it is not surprising to me that our good friend, the lone Member from Alaska, would like to just have the Member from Alaska unilaterally decide the decisions and/or others that represent the States that have significant acreage of national lands in them. I think we need to be careful stewards. We need to be very careful in terms of our treatment of our colleagues, the people specifically in these areas.

As my colleague from Montana indicated, we have had hearings in these areas and listened to people. We do not always agree with every local interest or every national or international interest with regard to these issues.

I would point out for those who are concerned that it has not been made clear that we have letters from the conservation groups in this country that have taken it upon themselves, the growth of which movement I think is unique to our Nation, and something I hope and think is being emulated on a global basis. But we have support from the president of the Montana Wildlife Federation, the representative from that State on the Sierra Club, the National Audubon Society, the Montana Wilderness Association, the Wilderness Society, the National Wildlife Federation president, and, of course, the Greater Yellowstone Ecosystem Conservation Organization is located in that area. I will later put those in the RECORD.

As much as possible, Mr. Chairman, these demonstrate the conservation support for the Committee on Interior and Insular Affairs product and their opposition to all amendments, including this amendment to the bill.

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

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I would like to carry on with my dialog I had with the gentleman from Montana [Mr. WILLIAMS] earlier.

Mr. Chairman, when the gentleman responded that the reason that the ninth circuit is so interested in what is going on in Montana, it is because, as the gentleman correctly answered, the law that caused the litigation to come into existence was created by the Congress of the United States. The law that we have created, among others, desperately needs to be changed.

I will mention just two areas. One deals with how we harvest timber that is standing after a fire in a region. The

current law of this country permits anybody without any standing to file an objection to a proposed harvesting of a tree that is standing as after a fire. The people that know a lot about the logging industry in my State say you have got about a year after an area is burned to get that tree out of there. Otherwise the insects and the bugs destroy it.

Would you believe, my friend, that our system today by a law passed by Congress is such that we cannot administratively get the paperwork done in order to authorize these trees to be harvested as part of productive timber before they are rendered useless for all us?

That is nonsense. This Congress should fix that. It cannot fix it because the people on that side, in my humble opinion, do not want it fixed.

Another law that needs changing badly is the Endangered Species Act. Because contrary to what most people in America believe, Congress has done the amazing thing of repealing Genesis.

□ 1610

Genesis 1 says that God created the world, created man in his own image and given man a mandate to take charge of the world and the things of the world and take dominion over all earthly things.

The Endangered Species Act of 1973, which Congress adopted, has reversed that. Animals today are more important than people. That is nonsense; this law has to be changed so we can get some balance into the use of our resources and create jobs for the American people.

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I just wanted to respond to my friend from California. The law that Congress is not responsible for is Genesis, which the gentleman referred to. However, we are responsible for laws with regard to land planning.

The gentleman is correct that the Congress writes the laws that the ninth circuit court, where the Forest Service has a 100-percent record of loss, then has to apply.

The reason that the Forest Service is losing in the ninth circuit court is because ever since former President Reagan and former Interior Secretary Jim Watt and various secretaries of the Department of Agriculture, the administration has often not complied with the law that the Congress has written. They constantly obfuscate it, end run it, try to slam dunk around it, and the ninth circuit court of course, finds they are not in compliance.

If we had an administration that followed the law, they would not have a 100-percent record of loss before the ninth circuit court.

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I say to my friend from Montana, Mr. WILLIAMS, he has got the cart before the horse. The defect in the system is not what the administration of Reagan and Bush has been trying to do, to give balance to the use of our resources and create jobs for the American people, the defect is in the law that prevents that from taking place.

In my State of California, we are witnessing, my colleagues wonder why a Californian is in this debate on Montana, the answer is the Endangered Species Act has just about destroyed the timber industry in northern California with the loss of 80,000 jobs. I do not know how anyone cannot justify this pardon. Working our hands about unemployment and yet pursue a policy to add to unemployment. Whole communities in northern California are going to disappear, if we do not change this law.

And the timber, it is not just the timber industry, the agriculture industry in the Central Valley is threatened over the chinook salmon. We need to change this basic law.

The CHAIRMAN. The gentleman from Montana [Mr. MARLENEE] has 8 minutes remaining.

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

I do not like to take issue with my colleague with regard to a tangent issue, but every time the administration tries to carry out the intent of the law, if it is not carried out stringently enough, if they do not do everything on the side of the preservationists, the chairman of these committees in the U.S. Congress call those administrators up before their committee and proceed to beat up on them and make the kind of publicity that has the political impact desired to put the extremists and the environmental and green community on their side.

My colleague has made, I believe, some mischaracterizations about what I said. I am perfectly willing and capable of speaking for myself and feel that it would be the height of arrogance for someone to presume to speak for me. So let me correct what he may have said or interpreted that I said in that I wanted changes in the law.

I wanted no more wilderness, and I made that clear from the outset in this particular debate. But in an effort to facilitate the process, I had promised the people of Montana that I would not stand in the way of progress. But neither will I stand for having the rights of the people of Montana trampled by the chairman of the committee or by a legislative process that plays a shell game or by celebrities from out of State or environmental activists.

Jobs in the State of Montana and our economic well-being is too important. My colleague from Montana has said that both Senators have sent emissaries to his office to seek changes. However, in questioning Senator BURNS, I find that neither Senator BURNS nor any of his staff has, in fact, visited with the gentleman from Montana, PAT WILLIAMS, in his office about changes they might seek for the legislation.

Let me tell my colleagues what Vento-Williams does, in concluding this debate. In Lincoln County, where they put into that legislation that particular piece that my friend has referred to as Roderick Mountain, the suitable timber harvest of this area out of production with his bill. Three hundred people would have been employed in Lincoln County by this timber.

In Sanders County, timber for 700 jobs lost by designation of Trout Creek as wilderness. I would not be proud of that.

Also, it puts off limits a potential $500 million in revenue receipts that could go to support our schools coming from oil and gas development on the Rocky Mountain Front which borders well over a million acres of wilderness already.

This legislation is opposed by the NCA, National Cattleman's Association. I have a letter here that says that the water language of the Vento-Williams bill provides for "unquantified Federal reserve of water rights within the wilderness area and is strongly opposed by the National Cattleman's Association."

There is private property within the boundaries, according to the letter of the NCA, some of the boundaries are drawn. They are private property. "We particularly oppose the inclusion of the Crazy Mountains in that area."

I shall go on and requote what the Senator who represents that area said. In spite of what my colleague says, as my misrepresentation, I get this from the Senator who lives there and who should know. Unless, of course, one had drawn the map so quickly in order to expand the wilderness areas that one gives no consideration to its impacts. The Senator who lives there should know. He said:

> It contains private land, some roads, some recently logged-off areas and, indeed, a hunting lodge on one of the private sections. This addition was obviously hastily drawn and should not be designated wilderness.

This legislation proposed by Vento-Williams is opposed by the administration for the same reasons that I have outlined before. It creates an expansion of wilderness that, as I said, may be characterized by some as not a lot, but maybe it is like the city coming along and saying, "We only want a part of your sidewalk, but it is the part right next to your door."

We only want a little bit more wilderness, but it is like a pimple on the end of a nose, it is in the wrong place. And it is going to cost Montanans jobs and revenue.

In a poll done by Eastern Montana College, 71.9 percent of the people in the State of Montana believe there is enough or too much wilderness in the State of Montana.

□ 1620

That is the basic argument about what we are doing here today, and it is no wonder that we have been 12 years, 12 years, in arriving at a Montana wilderness bill, when really they did not want a lot more wilderness. This bill gives us too much. It is too much for Montanans to accept and abide by. That is exemplified by 2,600 people demonstrating in the streets.

One more thing. The characterization of the paid ad by my colleague from Montana, the characterization of this paid ad as these people testifying in favor of the bill or wanting changes in the bill, this came about and was placed in the papers the day that we voted in the subcommittee on the Vento-Williams legislation.

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

The CHAIRMAN. The gentleman from Montana [Mr. MARLENEE] has 30 seconds remaining, and the gentleman from Minnesota [Mr. VENTO] has 3 minutes remaining, and he has the right to close debate.

Mr. MARLENEE. Mr. Chairman, I have no further speakers. If the gentleman wishes to close debate, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I yield the remaining 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I urge all my colleagues to oppose the Marlenee amendment, oppose his legislation. It is replete with errors and is flawed, both technically and substantively.

The Marlenee amendment closes more motorized recreational trails than does the Williams bill before us here today. It is the Marlenee amendment and only the Marlenee amendment that surrounds private lands with wilderness. It does that in an area called the Sawtooth. It also surrounds, with wilderness, patented mining claims. It does that in an area called the Camus.

It is the Marlenee amendment that would completely prevent at least one planned mining operation in Montana from going ahead. It is the Marlenee legislation which would leave Montana's water users to the whims of Federal courts. It is the Marlenee amendment that would lose the safeguards of specified junior water rights, and Montana water court preeminence assured by my legislation.

Finally, Mr. Chairman, Montana is indeed the last best place. The wild lands of Montana need protection beyond what the Marlenee legislation will provide. Montanans, in the majority, have a visceral understanding of the importance of our final remaining wild lands, and the majority of them are absolutely, ironclad, copper-riveted committed to protect the last best place, and the Marlenee amendment does not do that.

I urge my colleagues to vote no on it.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Montana [Mr. MARLENEE].

The amendment in the nature of a substitute was rejected.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. KOSTMAYER: Strike all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Montana Sector of the Northern Rockies Ecosystem Protection Act of 1992".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that:

(1) Many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high values as wilderness, parks, and wild and scenic rivers, and will, if properly preserved, contribute as an enduring resource of wilderness, wild land areas, and biodiversity for the benefit of the American people.

(2) The bioregion of the Northern Rockies contains the most diverse array of wild lands remaining south of Canada, providing sanctuary for a host of species listed as threatened or endangered under the Endangered Species Act of 1973. These national interest public lands are among the most popular wild lands in the Nation, embracing major ecosystems and national treasures such as the Greater Yellowstone, Greater Glacier/Continental Divide, Hells Canyon, and Greater Salmon ecosystems. The headwaters for nearly two-thirds of North America originate in the Northern Rockies, sending waters to three oceans and providing critical supplies of clean water for wildlife and other users.

(3) The wildlife treasures of the Northern Rockies are of international significance with a remarkably intact large mammalian fauna and rare and unique plant life.

(4) However, wildlife habitat fragmentation due to roadbuilding, timber harvest, mining, oil and gas exploration, lack of interagency cooperation, and other activities has severe effects on the wildlife populations and their habitat, including those listed as threatened or endangered under the Endangered Species Act of 1973, the water quality, ancient forests, and greater ecosystems of the Northern Rockies Bioregion. Continued fragmentation and development of the remaining roadless and essentially roadless ecosystems and biological connectors of the Northern Rockies would cause a loss to the Nation of an entire wild land region, and the only remaining areas south of Canada still pristine enough to support populations of caribou, gray wolves, grizzly bears, anadromous fish, and numerous other rare and endangered plant and animal life all in one intact bioregion.

(5) Since the 1936 roadless area inventory completed by Bob Marshall, millions of acres of roadless wild lands have been developed in the Northern Rockies. Extensive fragmentation of wild lands and wildlife habitat has resulted in the listing of several species as threatened or endangered and reduced the numbers and range of many others, including anadromous fish.

(6) A review of the current situation in the Northern Rockies has revealed the urgent need for an ecological reserve system for the Northern Rockies Bioregion which includes core ecosystem reserve areas and biological connecting corridors necessary to ensure wildlife movements and genetic interchange between the core reserve areas.

(7) The economic value to the Nation of most of these undeveloped areas left in their natural state, greatly exceeds any potential return to the United States Treasury from timber harvest and development. If current Federal land management in the Northern Rockies continues to result in the development of roadless areas, the American public will pay with tax dollars for permanent reductions in wilderness, water quality, fish and wildlife habitat, as well as species and biological diversity.

(8) The congressional review of roadless areas within National Forest System lands in the State of Montana has identified areas which, on the basis of their land form, ecosystem, associated fish and wildlife, economic value, and location will help to fulfill the role of the United States Forest Service to ensure a quality National Wilderness Preservation System. This review has identified other areas which may contain outstanding values as national park and preserves and wild and scenic rivers. This review has also identified areas which may not possess outstanding wilderness attributes and should not now be designated as components of the National Wilderness Preservation System, but which should be studied to determine their role in maintaining biological diversity in the Northern Rockies.

(9) Many areas of National Forest System lands have been damaged and their productivity reduced by unwise development practices which have also impaired ecosystem function and biological diversity. The Island Park area adjacent to Yellowstone National Park contains large clear-cut areas right up to the park boundary. Efforts should be made to return these areas to their former ecological health and native diversity by designating them as National Wildland Restoration and Recovery areas. These efforts seek to ensure that vital ecosystem components are restored, especially in areas where wildlife travel corridors and native fish and wildlife populations have been damaged or eliminated, and restoration efforts will seek to ensure and maintain genetic interchange, biological diversity, and restoration of native species diversity throughout the Northern Rockies Bioregion.

(10) Federal agencies entrusted with managing the Bioregion's natural resources operate under contradictory Congressional mandates, and thus are in dissension over management policies which involve common resources and major ecosystems.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System in order to—

(A) promote, perpetuate, and preserve the wilderness character of the land,

(B) protect watersheds and wildlife habitat, including that of species protected under the Endangered Species Act of 1973,

(C) protect the ecological integrity and contiguity of major wild land ecosystems and their interconnecting corridors identified by the United States Fish and Wildlife Service, and other sources,

(D) protect and maintain biological and native species diversity,

(E) promote and ensure interagency cooperation in the implementation of integrated, holistic ecosystem management and protection of the ecosystems and corridors covered by this Act,

(F) preserve scenic, historic, and cultural resources,

(G) promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, and

(H) avoid the misinvestment of scarce capital in lands of marginal timber value;

(2) designate certain National Forest System lands in the State of Montana as a national park and preserve study area;

(3) designate certain National Forest System lands and watercourses in the State of Montana as Wild and Scenic River study areas;

(4) establish a pilot system of National Wildland Restoration and Recovery Areas and a Wildlands Recovery Corps to help restore biological diversity and native species; and

(5) establish a system of biological connecting corridors between the core ecosystems in the region.

**SEC. 3. WILDERNESS.**

(a) DESIGNATION AS WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Montana are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) GREATER YELLOWSTONE ECOSYSTEM.—Certain lands in the Gallatin, Custer, and Beaverhead National Forests which comprise approximately 581,208 acres, as generally depicted on a map entitled "Greater Yellowstone Ecosystem", dated September 10, 1992, including each of the following areas: (A) North Absaroka (159,259 acres), (B) Republic Mountain (700 acres), (C) Chico Peak (10,855 acres), (D) Beartooth (4,720 acres), (E) Lionhead (32,780 acres), (F) Gallatin Range (135,885 acres), (G) Lee Metcalf Additions (143,389 acres), (H) Lost Water Canyon (9,800 acres), (I) Red Lodge-Hellroaring (14,760 acres), (J) Burnt Mountain (9,320 acres), (K) Fishtail Saddleback (16,560 acres), (L) North Absaroka (22,500 acres), and (M) Line Creek Plateau (20,680 acres).

(2) GREATER GLACIER-CONTINENTAL DIVIDE ECOSYSTEM.—Certain lands in the Flathead, Lewis and Clark, Helena, and Lolo National Forests which comprise approximately 956,634 acres, as generally depicted on a map entitled "Greater Glacier-Continental Divide Ecosystem", dated September 10, 1992, including each of the following areas: (A) Swan Crest (89,402 acres), (B) Swan Front (145,133 acres), (C) South Fork (53,779 acres), (D) Middle Fork (41,339 acres), (E) Limestone Caves/Lost Jack (57,640 acres), (F) LeBeau (6,289 acres), (G) Choteau Mountain/Teton (65,433 acres), (H) Deep Creek (49,322 acres), (I) Renshaw (57,591 acres), (J) Sawtooth (15,195 acres), (K) Silver King/Falls Creek (43,192 acres), (L) Monture Creek (121,786 acres), (M) Stonewall Mountain (54,238 acres), (N) Lincoln Gulch (8,286 acres), (O) Anaconda Hill (19,212 acres), (P) Specimen Creek (13,267 acres), (Q) Crater Mountain (9,985 acres), (R) Ogden Mountain (12,418 acres), (S) Nevada Mountain (49,464 acres), and (T) Ten Lakes (43,663 acres).

(3) GREATER CABINET-YAAK ECOSYSTEM.—Certain lands in the Kootenai National Forest which comprise approximately 219,577 acres, as generally depicted on a map entitled "Greater Cabinet-Yaak Ecosystem", dated September 10, 1992, including each of the following areas: (A) Cabinet additions (68,297 acres), (B) Cube Iron-Silcox (38,085 acres), (C) Mt. Henry (21,000 acres), (D) Buckhorn Ridge (21,809 acres), (E) Northwest Peak (20,330 acres), (F) Grizzly Peak (4,890 acres), (G) Willard/Estelle (16,162 acres), (H) Gold Hill West (10,200 acres), (I) Gold Hill East (10,700 acres), and (J) McNeeley (8,104 acres).

(4) GREATER SALMON ECOSYSTEM.—Certain lands in the Bitterroot and Lolo National Forests which comprise approximately 188,819 acres, as generally depicted on a map entitled "Greater Salmon Ecosystem", dated September 10, 1992, including each of the following areas: (A) Bluejoint (63,924 acres), and (B) Selway-Bitterroot additions (124,895 acres).

(5) GREATER SALMON-GREATER YELLOWSTONE CORRIDOR.—Certain lands in the Bitterroot and Beaverhead National Forests which comprise approximately 501,457 acres, as generally depicted on a map entitled "Greater Salmon-Greater Yellowstone Corridor", dated September 10, 1992, including each of the following areas: (A) Allan Mountain (102,715 acres), (B) Anderson Mountain (3,466 acres), (C) West Big Hole (125,606 acres), (D) Garfield Mountain (43,067 acres), (E) Goat Mountain (9,504 acres), (F) Italian Peaks (91,277 acres), (G) Tendoy Mountains (57,490 acres), (H) Tash Peak (59,839 acres), and (I) Saginaw Creek (8,493 acres).

(6) SAPPHIRE MOUNTAINS/ANACONDA-PINTLAR.—Certain lands in the Bitterroot, Deerlodge, and Beaverhead National Forests which comprise approximately 476,612 acres, as generally depicted on a map entitled "Sapphire Mountains/Anaconda-Pintlar", dated September 10, 1992, including each of the following areas: (A) Quigg Peak (75,711 acres), (B) Stony Mountain (102,452 acres), (C) Sapphire Crest (116,530 acres), (D) Silver King (28,884 acres), (E) Emerine Mountain (16,664 acres), (F) Sleeping Child (21,423 acres), and (G) Anaconda-Pintlar additions (114,948 acres).

(7) LITTLE BELT MOUNTAINS.—Certain lands in the Lewis and Clark National Forest which comprise approximately 370,809 acres, as generally depicted on a map entitled "Little Belt Mountains", dated September 10, 1992, including each of the following areas: (A) Tenderfoot/Deep Creek (92,570 acres), (B) Middle Fork Judith (84,904 acres), (C) Pilgrim Creek (44,919 acres), (D) Sawmill Creek (11,477 acres), (E) Big Baldy (43,060 acres), (F) Tollgate-Sheep (24,193 acres), (G) Mount High (33,489 acres), and (H) Bluff Mountain (36,197 acres).

(8) COEUR D'ALENE MOUNTAINS.—Certain lands in the Lolo National Forest which comprise approximately 144,217 acres, as generally depicted on a map entitled "Coeur d'Alene Mountains", dated September 10, 1992, including each of the following areas: (A) Reservation Divide (24,616 acres), (B) North Siegel (8,563 acres), (C) S. Siegel-S. Cutoff (13,599 acres), (D) Patricks Knob (17,282 acres), (E) Cherry Peak (38,568 acres), and (F) Mount Bushnell (41,589 acres).

(b) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated under this section shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act or any similar reference shall be deemed to be a reference to the date of the enactment of this Act.

(c) MAP AND DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall file a map and legal description of each wilderness area designated under this section with the Committee on Energy and Natural Resources of the Senate and the Speaker of the House of Representatives. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map and legal description may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture.

**SEC. 4. WATER.**

(a) RESERVATION.—With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes for which such area is designated. The priority date of such reserved rights shall be the date of enactment of this act.

(b) IMPLEMENTATION.—The Secretary of Agriculture, and all other officers of the United States shall take all steps necessary to protect the rights reserved by subsection (a), including the filing of claims for quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of Montana in which the United States has been or is hereafter properly joined in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 5460; 43 U.S.C. 666), commonly referred to as the "McCarran Amendment".

(c) CONSTRUCTION.—(1) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved, appropriated, or otherwise secured by the United States in the State of Montana on or before the date of enactment of this Act.

(2) Nothing in this Act shall be construed as establishing a precedent with regard to any future designations, including designations of wilderness, or as constituting an interpretation of any other Act or designations made pursuant thereto.

**SEC. 5. FLATHEAD NATIONAL PARK AND PRESERVE STUDY.**

(a) IN GENERAL.—The Congress hereby directs the Secretary of the Interior, acting through the Director of National Park Service, to study the feasibility of creating a Flathead National Park and Preserve.

(b) STUDY AREA.—The study area shall consist of that area generally known as the Glacier View Ranger District of the Flathead National Forest, excepting those lands south of the Big Mountain Road. The study area shall comprise approximately 285,078 acres, as delineated on the map entitled "Flathead National Park and Preserve Study" and dated September 10, 1992.

(c) STUDY.—The Secretary shall study the feasibility of creating a unit of the National Park System, including national park and national preserve designations to be administered by the National Park Service. The study shall include specific recommendations as to which areas within the study boundary should be classified as national park, and which should be classified as na-

tional preserve where hunting, fishing, and some motorized use shall be allowed.

(d) TIME PERIOD.—The study shall be completed 3 years after the date of enactment of this Act.

(e) ADMINISTRATION OF AREA.—The national park and preserve study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain its presently existing natural character and potential for inclusion in the National Park System. Until Congress determines otherwise, no new road construction or reconstruction, or timber harvest (except firewood gathering) shall be allowed within the study areas. Additionally, no oil and gas leasing, mining, or other development which impairs the natural and roadless qualities of the study area shall be allowed. Special consideration shall be given to preserving scenery, water quality and fisheries habitat, biological diversity, and wildlife habitat for threatened and endangered species.

**SEC. 6. WILD AND SCENIC RIVER STUDIES.**

(a) STUDIES.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) is amended by adding the following new paragraphs at the end thereof:

"( ) SMITH RIVER, MONTANA.—The segment within the Lewis and Clark National Forest from Tenderfoot Creek downstream to Deep Creek, comprising approximately 11.8 miles. Notwithstanding any other provision of this Act, the Secretary of the Interior, acting through the Director of the National Park Service shall be the lead agency for conducting the study of the river segment described in this paragraph. The study of the river segment described in this paragraph shall be completed not later than 3 years after the enactment of this paragraph.

"( ) YELLOWSTONE RIVER, WYOMING AND MONTANA.—The segment within the Gallatin National Forest and Yellowstone National Park from the southern boundary of Yellowstone National Park to the confluence with Yellowstone Lake, and from the Fishing Bridge downstream to the mouth of Yankee Jim Canyon comprising approximately 102 miles. Notwithstanding any other provision of this Act, the Secretary of the Interior, acting through the Director of the National Park Service shall be the lead agency for conducting the study of the river segment described in this paragraph. The study of the river segment described in this paragraph shall be completed not later than 3 years after the enactment of this paragraph.

"( ) MIDDLE FORK JUDITH RIVER, MONTANA.—The segment within the Lewis and Clark National Forest from Arch Coulee Junction downstream to the national forest boundary, comprising approximately 4.8 miles. Notwithstanding any other provision of this Act, the Secretary of the Interior, acting through the Director of the National Park Service shall be the lead agency for conducting the study of the river segment described in this paragraph. The study of the river segment described in this paragraph shall be completed not later than 3 years after the enactment of this paragraph.

"( ) ROCK CREEK, MONTANA.—The segment within the Lolo and Deerlodge National Forests from the Gilles Bridge downstream to the confluence with the Clark Fork River, in the northwest quarter of section 12, T11N, R16W, comprising approximately 35 miles. Notwithstanding any other provision of this Act, the Secretary of the Interior, acting through the Director of the National Park Service shall be the lead agency for conducting the study of the river segment described in this paragraph. The study of the river segment described in this paragraph shall be completed not later than 3 years after the enactment of this paragraph.".

(b) SPECIAL PROVISIONS.—Except as otherwise provided by this section, and subject to existing private rights, the wild and scenic river study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretaries of Agriculture and Interior so as to maintain their presently existing wild and scenic character and potential for inclusion in the National Wild and Scenic Rivers System at their highest level of eligibility. The streambed and the lands one half mile wide along either side of the streambed of any river or stream included in the study shall be managed to protect their presently existing suitability for inclusion into the National Wild and Scenic Rivers System as wild rivers. No new road construction or reconstruction, bridges, dams, timber harvesting, mining, oil and gas leasing, or other developments shall be allowed within the one half mile corridor along either side of rivers and streams under study.

**SEC. 7. ECOSYSTEM PROTECTION STUDY FOR THE NORTHERN ROCKIES.**

(a) DEFINITIONS.—As used in this section—

(1) The term "Scientific Committee" means the Northern Rockies Scientific Committee established under subsection (b).

(2) The term "Northern Rockies" means those portions of the States of Montana, Idaho, Wyoming, Oregon, and Washington depicted on the maps accompanying this Act.

(3) The term "wildlife" means all nondomesticated species of plants, animals, and microbes.

(b) SCIENTIFIC COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the National Academy of Sciences shall establish a Northern Rockies Scientific Committee. The Scientific Committee shall consist of 12 members appointed by the National Academy of Sciences after consideration of comments received pursuant to paragraph (4) and full and good faith consultation with the Society for Conservation Biology and professionals in the fields of wildlife, fisheries, population ecology, hydrology, range and forestry.

(2) MEMBER QUALIFICATIONS.—The Scientific Committee shall consist of members with the following qualifications—

(A) one representative from academia who has studied the implementation of recovery plans for grizzly bear;

(B) one academic forest economist;

(C) one landscape ecologist;

(D) one wildlife biologist;

(E) one fisheries biologist;

(F) one plant ecologist;

(G) one big game population ecologist;

(H) one fire ecologist;

(I) one forest ecologist;

(J) one hydrologist;

(K) one conservation biologist; and

(L) one invertebrate biologist.

(3) OTHER REQUIREMENTS.—Not more than 2 members of the Scientific Committee may be employees of any Federal or State agency or from any industry involved in resource extraction.

(4) PUBLICATION AND COMMENT PERIOD.—The National Academy of Sciences shall publish for public comment the proposed appointees to the Scientific Committee in the Federal Register.

(c) STUDY.—The Scientific Committee shall conduct a study of the ecosystem of the Northern Rockies. All lands within the Northern Rockies shall be studied on a regional basis, without regard to political boundaries, utilizing an integrated, multidisciplinary approach. Emphasis shall be placed on National Forest System lands, other lands owned by the Federal Government, and privately owned corporate timber lands. The following subjects shall be examined in detail—

(1) the extent of habitat fragmentation caused by development actions, particularly logging and road building, and the effect such fragmentation has had on the numbers, distribution, densities, movement and viability of threatened, endangered and sensitive wildlife species, including, but not limited to, grizzly bear, gray wolf, and woodland caribou;

(2) the impact of road densities on wildlife distribution, densities and mortality, on stream sedimentation, and on native fisheries;

(3) the extent to which blocks of wild lands can be linked to create a system of connecting land corridors capable of supporting wildlife and plant migrations and natural genetic exchange;

(4) the condition of native fisheries in the region and the impacts that development actions, particularly logging, road building and increasing accessibility, have had on these fisheries;

(5) the opportunities for cooperative management to protect and enhance wildlife populations, and the extent to which such cooperative management is hindered by conflicting mandates, goals, and jurisdiction of the various resource management agencies; and

(6) the extent to which harvested lands have been reforested and the role, if any, such reforestation has had or could have in protecting the ecosystem.

(d) PLAN.—Based on the results of the study required by subsection (c), the Scientific Committee shall prepare a plan to protect the ecosystem of the Northern Rockies. Such plan shall analyze the subjects studied under subsection (c). In addition, such plan shall—

(1) identify critical habitat and possible ecosystem corridor linkages; and

(2) make recommendations for management goals, techniques and other specific actions needed to protect and restore—

(A) biological and ecological diversity;

(B) native wildlife, fisheries and plants;

(C) water quality and instream flows;

(D) the productivity on a long-term sustainable basis of all resources on Federal forest lands; and

(E) biological connectivity between and among physiographic provinces.

(e) TIME FOR STUDY AND PLAN.—Not later than 3 years after the date of enactment of this Act, the ecosystem study required by subsection (c) shall be completed and the plan required by subsection (d) shall be submitted to the Secretary of Agriculture, the Secretary of the Interior, the Committees on Interior and Insular Affairs and Agriculture of the House of Representatives, and the Committees on Energy and Natural Resources and Agriculture, Nutrition, and Forestry of the Senate.

(f) IMPLEMENTATION OF PLAN.—Within 1 year after the date the ecosystem protection plan is submitted under subsection (e), the Secretaries of Agriculture and the Interior shall implement the recommendations of the Scientific Committee contained in such plan.

(g) PROTECTION OF ROADLESS AREAS.—Until such time as the ecosystem protection plan is submitted under subsection (e) and subse-

quently implemented under subsection (f), the Secretaries of Agriculture and the Interior shall prohibit with respect to all roadless areas within their jurisdictions any new road construction or reconstruction, timber harvest (except firewood gathering), salvage logging, mining, oil and gas leasing or exploration, or any other development that would impair the natural and pristine qualities of these areas.

**SEC. 8. WILDLAND RECOVERY SYSTEM.**

(a) NATIONAL WILDLAND RESTORATION AND RECOVERY SYSTEM.—In recognition of the fact that certain National Forest System lands and surrounding areas have been damaged by unwise resource extraction and development activities and practices, and where the productive potential of the lands and waters of these areas has been reduced by development activities, there is hereby established the National Wildland Restoration and Recovery System (hereinafter in this section referred to as the "Recovery System").

(b) MANAGEMENT.—Recovery System lands shall be managed so as to restore their native vegetative cover and species diversity, stabilize slopes and soils so as to prevent or reduce further erosion, recontour slopes to their original contours, remove barriers to natural fish spawning runs, and generally restore, as much as possible, such lands to their natural condition as existed prior to their entry and development.

(c) COMPONENTS.—The following areas, as depicted on the maps dated September 10, 1992, and entitled "National Wildland Restoration and Recovery Area", shall be components of the National Wildland Recovery and Restoration System:

| Recovery areas | Acres | National Forest |
|---|---|---|
| Skyland | 10,126 | Flathead National Forest |
| Hungry Horse | 205,236 | Flathead National Forest |
| Lolo Creek | 59,398 | Lolo/Clearwater National Forests |
| Yellowstone West | 137,600 | Targhee National Forest |
| Mt. Leidy | 69,912 | Bridger/Teton National Forest |
| Cabinet/Yaak | 92,800 | Kootenai National Forest |
| Magruder Corrior | 11,522 | Nez Perce/Bitterroot National Forest |

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to establish a special unit of the United States Forest Service known as the National Wildland Recovery Corps which shall hire the necessary personnel and purchase the necessary equipment to carry out its land recovery responsibilities as defined by this Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. KOSTMAYER] will be recognized for 30 minutes in support of this amendment, and the gentleman from Montana [Mr. MARLENEE] will be recognized for 30 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, I want to commend the Members on both sides, the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Minnesota [Mr. VENTO], the gentleman from Minnesota [Mr. VENTO], the chairman who has guided the subcommittee for a long time, and under whose leadership some great work has been done.

There are some fundamental differences between the two proposals now before the House, that is, the Williams-Vento proposal, and the one I am now offering.

My proposal would provide 3.4 million acres of wilderness. That offered by the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Minnesota [Mr. VENTO] would offer 1.4 million acres of wilderness, 1 million of wilderness study areas, and 150,000 acres of special management.

No. 2, my proposal contains 154 miles of wild and scenic river designations. Parts of the Smith, the Yellowstone, the middle fork of the Judith, and the Rock Creek will be designated as wild and scenic. The Williams-Vento proposal would protect no rivers in the State of Montana at all.

No. 3, my water rights language is the same as theirs.

No. 4, my proposal contains a provision called the Wild Lands Recovery Program, which would reclaim more than 470,000 acres of decimated timber land by creating a National Wildlife Recovery Corps within the National Forest Service.

No. 5, my proposal, unlike theirs, contains a provision to study the Glacier View Ranger District of the Flathead National Forest for possible addition to the National Park System. The provision requires a study of 285,000 acreas, which would last for 3 years.

Both the Williams-Vento bill and the Kostmayer bills contain a study of the northern Rockies ecosystem, in parts of Montana, Wyoming, Idaho, Washington, and Oregon. The difference is that the Vento-Williams proposal does not protect that land during the study period. My proposal would protect these lands during the study period.

There really are three reasons I am offering this proposal today. One is an environmental reason. Another is on behalf of the taxpayers, and the third is on behalf of the people of Montana and protecting their economy.

On the environment, this is a different approach. Normally we designate wilderness areas State by State, and that is, of course, what we are going to do today, although it is not the way we ought to be designating wilderness areas. We ought to be designating wilderness areas by ecosystems, because what we have here is the largest, last remaining ecosystem of more than 13 million acres covering five States in the lower 48.

What we are doing is dealing with a portion of that. We ought to be dealing with all of it, not with a portion of it. For example, we have wildlife corridors which are corridors which allow wildlife to move from one area to another, but those wildlife do not stop at the State border. They do not stop at the Montana State line. They do not recognize State borders. that is why it is a mistake to deal with the preservation of wilderness areas State by State. We ought to deal with the preservation of wilderness areas in an ecosystem. That is what I seek to do.

Second, as I said a little while ago, in fiscal year 1991 the taxpayers of this country subsidized the low-cost timber sales in Montana to the tune of $40 million. What that means is that the Federal Government cuts the roads into the forest for the timber companies to get the timber. the taxpayers of the United States paid to build the roads that the timber companies used to enter the forest to cut down the timber. Then they buy the timber from the U.S. Government.

In 1991, in Montana, when that was all done, there was a net loss of $40 million. So the taxpayers of this country, under this proposal, are subsidizing some of the largest timber corporations in this country. That is the way the system works. So I come here today on behalf of the taxpayers as well to change the system.

Finally, I come today to speak on behalf of the people of Montana. If we were to save all of the remaining roadless areas in the State of Montana; that is, if we were to save all of those areas which are eligible to be wilderness because roads have not yet been cut there, according to a study prepared by the University of Montana and the University of Idaho, the cost in banning logging in those areas would be a total of 600 jobs. That is the economic cost of the Kostmayer proposal to save 4 million acres of wilderness, 600 jobs.

In other areas besides timber, in services, in recreation, in tourism, in the new informational services we will create that many jobs in 5 weeks.

□ 1630

But we are not prepared to pay the cost of 600 jobs which would be created in other areas in a little more than a month to save 4 million acres of wilderness. Those timber jobs which will be lost are two-tenths of 1 percent of the total job base in the State of Montana.

This economic argument is the only argument that makes sense, and the argument that is made by the other side simply does not make sense. There are a relatively small number of timber jobs left in the State of Montana, and a relatively small percentage of those would be lost. In other words, we are looking at an economic situation, and we are not looking at it I think very realistically.

Now, for example, the National Forest Service in the Gallatin National Forest is about to engage in below-cost timber sales in order to save 75 timber jobs. But what happens when those forests are cut? Those areas of Montana and all of the Western States become less attractive to the service industry, to fishing, to tourism, to information-age jobs, and to recreation. We are

damaging not only the environment, we are damaging the economy of Montana and of the West.

The way in which we manage our national forests, the clear-cutting which we allow, the millions of dollars in subsidized sales to the biggest corporations in this country is a shameful tragedy, and we will come to the time when we recognize that what we have done, the giveaway of millions and millions of dollars to the timber companies, $40 million in the State of Montana last year alone, there will come the time, when we recognize the folly of what we have done.

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

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

Mr. Chairman, I am amazed, absolutely amazed when I hear the statement that there are relatively few timber jobs in the State of Montana. That may be a few compared to Pennsylvania, but unemployment is already high in Montana. I hope the gentleman does not suffer from the same problem as Montana does in that regard in Pennsylvania. I hope he does not suffer that kind of problem.

But let me inform the gentleman from Pennsylvania that there is a $288 million payroll surrounding the timber industry in western Montana, $288 million, 10,000 timber jobs within 100 miles of Kalispell and Missoula, MT. That timber industry and mining industry, which the gentleman would also like to see run out of the hills, provide the tax base, the economic benefits that support the infrastructure of schools, and hospitals, and highways. The gentleman seeks to destroy the mills and run miners out of the hills, and seeks to destroy the kind of services that Montana has come to depend on, the things that are necessary.

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

Mr. MARLENEE. I yield to my colleague, the gentleman from Missouri.

Mr. EMERSON. Mr. Chairman, I thank the gentleman for yielding. I wanted to observe that the gentleman from Pennsylvania said there were three reasons for which he was offering this amendment. I wanted to suggest that I really believe there is a fourth reason, and perhaps the real reason he is offering this extreme amendment is to make the Vento-Williams amendment look moderate by comparison.

Mr. MARLENEE. Reclaiming my time, have we ever seen this happen before? Is this deja vu?

Mr. EMERSON. I think I am afraid it is. I think we have reached that point in the year where Congress really should adjourn and stop doing such mischief, and let us revisit this issue, if at all possible, next year when perhaps a little more temperate climate might exist in which we could deliberate.

Mr. MARLENEE. Was this ever done to the gentleman from Missouri?

Mr. EMERSON. I have no complaints about how I have been treated. We actually made out rather well with Missouri wilderness issues. We were able to achieve some compromises. There really should be more compromise in these wilderness bills in the interest of jobs and the economy and the livelihood of our people.

Mr. MARLENEE. Mr. Chairman, I yield back the balance of my time.

Mr. KOSTMAYER. Mr. Chairman, I yield myself 30 seconds to point out to my friend from Montana and Missouri, who has taken a sudden interest in the affairs of the State of Montana, that there will remain after my proposal more than 10 million acres of woodlands that can be cut in the State of Montana. We do not seek to drive the timber industry out of Montana. It is an important industry. It has made an enormous contribution, and there are 10 million acres left on which timber can be cut in the State of Montana after my proposal.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. MCNULTY). The gentleman will state his parliamentary inquiry.

Mr. MARLENEE. Mr. Chairman, I meant to reserve the balance of my time.

POINT OF ORDER

Mr. KOSTMAYER. Point of order, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. KOSTMAYER. Mr. Chairman, the gentleman yielded all of his time back.

The CHAIRMAN pro tempore. The Chair would suggest to the gentleman from Pennsylvania that the gentleman can ask unanimous consent to reclaim his time, which is normally honored by the Members of the House.

Mr. KOSTMAYER. Mr. Chairman, if the gentleman from Montana would like to make such a unanimous-consent request, let me just say, Mr. Chairman, that he yielded back his time.

The CHAIRMAN pro tempore. The gentleman has made such a request. Is there objection to the request of the gentleman from Montana?

Mr. KOSTMAYER. I do not object, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair hears no objection, and the gentleman from Montana [Mr. MARLENEE] may reserve his time.

Mr. MARLENEE. Mr. Chairman, I am very pleased that the chairman and the gentleman from Pennsylvania did not object, because his colleague on that side of the aisle would not have had an opportunity to speak on this legislation. So I am most happy to yield such time as he may consume to my colleague, the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I appreciate the gentleman yielding. As I opposed the amendment of my colleague from Montana, I now want to oppose the amendment of my colleague from Pennsylvania and point out to the House that the Kostmayer amendment is opposed by each and every member of the Montana congressional delegation. That is both of us here in the House and both Senators are opposed to the Kostmayer amendment.

The amendment would designate at least twice as much land as wilderness than does my bill. The amendment by the gentleman from Pennsylvania [Mr. KOSTMAYER] fails to recognize longstanding conservation negotiated agreements on sensitive areas that need wilderness protection. The Kostmayer amendment would remove, it appears to me, about 25 percent of the suitable timber base in Montana, and I can assure my colleagues that would devastate some of our timber-dependent communities in Montana.

The Kostmayer amendment closes more than 50 percent of the motorized recreation trails and virtually all of high country motorized access in Montana. The Kostmayer amendment places in wilderness patented mining claims, a mistake my colleague from Montana would have made had his bill passed. It places in wilderness irrigation ditches and impoundments, dams and roads.

The Kostmayer amendment, my colleagues, has not received the endorsement of major conservation groups in America who have endorsed my legislation.

□ 1640

I want to read for my colleagues those conservation groups which have endorsed my legislation before the House today but have withheld their endorsement from the Kostmayer amendment which is now before the Members: the Wildlife Federation, the Sierra Club, the Wilderness Society, Montana's Outfitters and Guides, Montana's Rod and Gun Clubs, the Greater Yellowstone Coalition. Each of those groups supports my legislation but have knowingly withheld their support from the Kostmayer amendment.

I ask all of my colleagues here in the House, whether you consider yourself an extreme environmentalists, moderate conservationist, or, in fact, are more industry-related, I ask all of the Members to oppose the Kostmayer amendment, because all sides have not supported it, and most oppose it as well.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, this amendment obviously is misdirected and misguided.

The Members heard the gentleman from Montana talk about the implications it might have on the State of Montana. I wanted to address another part of the amendment which I consider to be a shot across the bow at the last of this session but will be alive and well during the next session, and the gentleman obviously is determined that he now places his hand and this Congress' hand over five States, not just one, but five States.

Now, there will be a study, and I want to discuss this study with you for just a moment, because it does impact the State of Oregon as one of those States. The problem with the study is not the study. The problem with the study is simply that everything stops until the study has been completed. And I assume it is being done by the National Park Service.

But the study stops everything, especially in roadless areas. Does that impact the State of Oregon? Well, let me tell you how it might. In the eastern part of the State, as I mentioned here before, we have a terrible, terrible infestation of timber. Three billion board feet, we estimate, is standing dead, dying, that should be harvested for forest health purposes as well as for jobs in our State. This amendment stops even salvage operations in roadless areas in my State.

The very forests that the gentleman is trying to preserve are the forests he is allowing to die; the trees that are infected will infect the next green tree and the next green tree until everything is wiped out. That is what this study does.

This idea that there are no jobs left in Montana and in the West in timber if fictitious. It displays the ignorance of the gentleman about what goes on in our State. Seventy-two communities in Oregon are directly dependent upon the timber industry, and I am not just talking about timber jobs, I am talking about hardware stores and the grocery stores and the school systems that will all disintegrate if the gentleman has his way.

Now, how does it affect one school district? This study, how does it affect one school district in my part of the area, in the Hells Canyon area. It eliminates half of the operating budget of the Enterprise school district. Half of the budget is gone for schools. Now, I am sure the gentleman is not interested in closing schools in Oregon, but he will.

Beyond that, we know about his bill that has been introduced that is not a part of this amendment, but has been introduced which provides that now the National Park System will take care of all of 14 million acres of designated land in five States, changing that management from the Forest Service and, in my case, the national recreation area now becomes a proposed national park, and the chairman of the subcommittee and I have heard, and we know, how the National Park Service is being funded or is not being funded, I should say.

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

Mr. SMITH of Oregon. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. Does the gentleman mean that there is a piece of legislation that has been introduced by our colleague that we are speaking of that takes wilderness areas and puts them into or under the jurisdiction of the National Park Service?

Mr. SMITH of Oregon. It takes not only some wilderness area but other designations such as national recreation areas, some national conservation areas, all currently being managed by the Forest Service, changes that management to the National Park System.

Mr. MARLENEE. If the gentleman will yield further, is not the management of the National Park Service such that they prohibit hunting in most of the areas under their jurisdiction?

Mr. SMITH of Oregon. In all areas that I know, you cannot hunt in a national park, and, of course, other recreation is limited as the gentleman well knows.

I wanted to point out while we are turning this over to this grand-sounding National Park System, there is a $376 million shortfall in the funding to operate existing parks in America without adding any more. The National Park Service has a backlog of $2 billion in construction programs. The National Park Service has a backlog of $2.5 billion in already designated land acquisitions.

Now we are going to turn over an additional 14 million acres. It makes a lot of sense? It does not make any sense to me.

The facts are that we have diverted the attention of this whole discussion to the point that the last tree is about to be harvested in the Northwest, there is nothing left, we have clearcut the whole region, and that is the purpose of the idea here is to shut everything down so that we save the last tree.

May I report to the Members these statistics put together by the Forest Service: The annual growth in national forests now exceeds harvest. I want to say that again: The annual growth in national forests now exceeds harvest by 55 percent.

Somebody said, "My goodness, we are overcutting." Obviously we are not overcutting.

As 70 percent of America's forest land base is already designated in land-use categories where timber harvest is forbidden. That means there is 30 percent of the land base left that can be managed in multiple use, and, yes, in harvesting of timber.

What makes anybody believe that in the 70 percent of the land base that is timbered across the country that cannot be touched ever again by a chain saw there is not old growth, there are not ancient forests?

So somebody is kidding somebody here, and obviously we are the brunt of it.

The purpose here simply is to shut down the West, simply because it has most of the public land in it, not Indiana, not New York, not the east coast. So we are subject to this intense battle and conflict that we ought to be put out of business because we happen to depend upon renewable natural resources.

Mr. Chairman, I resist that argument, and I suggest we vote down the Kostmayer amendment.

The CHAIRMAN. The Committee will rise informally to receive an announcement.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONIOR) assumed the chair.

The SPEAKER pro tempore. The House will be in order.

Pursuant to House Resolution 591, the Chair announces that a list has been placed at the desk describing the object of each motion to suspend the rules that may be considered not sooner than 2 hours after its notation on the list.

The Chair is advised that each Cloakroom has been provided a copy of the list as it is maintained at the desk.

The suspensions for tomorrow will be available, in other words, at the desk or in the Cloakroom for those who wish to apprise themselves as to what will be considered.

The Committee will resume its sitting.

## MONTANA NATIONAL FOREST MANAGEMENT ACT OF 1992

The Committee resumed its sitting.

Mr. KOSTMAYER. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Kostmayer amendment.

What is this debate about? The debate over the Kostmayer amendment is about 4 million acres of roadless area. Were we to be viewing it by air or on the ground it would look like wilderness. It has a wild character; it is essentially roadless.

But it is not legally designated as wilderness, and that is what this debate is all about.

The next question is then: Why are these areas roadless areas? Well, the roadless areas are for several good reasons. They tend to be remote, they

tend to be fragile, they tend to be areas where cutting timber does not make as much sense as other areas.

To really understand what we are talking about, we have to look a little bit at the history of the national forests in Montana and the other States. There are a lot of forest lands in these States that are in private ownership. They are in private ownership because they are more productive forest lands. The timber companies came in and they bought up lands from the Federal Government, and they bought the most productive forest land. You could predict that. They left the higher elevation areas, the areas that are rocky, the areas that are fragile, the areas where the timber is not so good. Those remain in the public domain, and that portion of the public forests which were the most rocky, the most remote, the most difficult to produce timber are those which are left today as roadless areas.

□ 1650

So we have a situation where we are looking at whether it is most appropriate to go into those areas to produce more timber, and it is not surprising, when that issue is raised, that we find that the sales in those areas are below-cost sales and that they are some of the most environmentally damaging sales. Again, the timber is not the most desirable, and growing conditions are very difficult.

And so we are asking to take timber from an area where it is very, very difficult. The irony of our forest policies is, rather than invest in private lands where it makes most sense to grow trees, we are fighting over these remote, fragile areas where, I would say, we are really not talking about growing trees, we are really talking about extracting timber from these areas because effectively the regeneration potential for a lot of these areas is very, very low.

The Interior Committee did a study on this, and it showed that areas that have been logged, an enormous number of them on our national forests are not regenerating the way you would like to believe. Now, on the lands that the private companies own, lower elevation, more rainfall, more productive lands, regeneration is more likely to occur. But on the public lands, particularly those roadless areas, because of their history, this regeneration is not a certain thing. We have in our minds a picture of tree farms where little seedlings grow up to be giant trees. But that is not what we are talking about on these areas. We are talking about extracting timber just like we talk about mining an area. That is why we should stop before we release 4 million acres of land from areas that are wild in character, and say we are going to put them in the timber base and we are going to produce timber on this, because in fact that is not what we are going to do. We are going to extract the timber that is there now and never, never restore those areas to something like they are now.

I do not think we need to take that 4 million acres for timber production. We have other areas where it makes more sense to produce timber. I would suggest that instead what we ought to do before we make this decision is ask the scientists, ask the people who understand these things, "What does it take to sustain these ecological systems over time? What does it take to maintain these forests for future generations? What does it take to maintain the fisheries and the other wildlife that depend on these forests?" I know what the answer is going to be when we ask the scientists. They are going to say we cannot take nearly as much timber out of these areas as we thought we could. We know that, we know that is what the scientists are going to say. We know their answer to that question. They do not want to hear the answer, because they know the answer is that we have extracted too much timber from these fragile areas in the past. In essence, we have run an ecological deficit, we have overdrawn our deficit. We have taken more out of these areas than they can sustain, because we are taking the timber from the wrong areas.

So I would suggest that we support the Kostmayer amendment because it is the amendment which makes the most sense from the standpoint of sustaining these areas for the long term.

We have a choice: We can extract timber and pursue the path we have, and we will find ourselves without resources to sustain jobs, sustain the economy in the future; or we can adjust our human activities to what can be maintained over a long period of time. It is a choice that we have to make.

And I would suggest that, with all due respect for the chairman of our subcommittee and the gentleman from Montana, Mr. WILLIAMS, who I know appreciate sustaining activities over some period of time, that by passing this rule and this bill and by avoiding the question of what do we have to do for the long term to sustain these forests and these ecological systems, that we are not going to achieve the objectives which we all seek.

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

Mr. JONTZ. I yield to the chairman of the subcommittee.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman in the well for his thoughtful statement in terms of reviewing the information and the problems that face our national forests, public domain lands. He has been one of the most thoughtful Members of Congress working in both the Agriculture and Interior Committees, as has my colleague, the gentleman from Pennsylvania [Mr. KOSTMAYER], the author of this.

Of course, I rise in opposition to the amendment today, and I would just state that I think, in fairness to the gentleman from Pennsylvania and the gentleman from Indiana, who are advocates of this amendment, they have asked for more time. In other words, the suggestion was that the type of amendment that they have here was not an amendment that could be resolved, this policy resolved, for instance, in this session of Congress. I think Montana, with 12 years of time that has been put in with the existing format, has got some difficulties, but clearly we are trying to resolve the problem on that particular policy path.

I think they raise important questions about the total ecosystem. But I think the great major difference I have with them is not so much the nature of the problem or trying to define it, but simply the solution, to declare wilderness, to use that as a means to stop timber harvest or change the general forest management plan. That I disagree with. I think this is not the type of solution.

Mr. JONTZ. Mr. Chairman, I appreciate the statement by our subcommittee chairman. I myself, as one Member, would be quite happy to put those areas into some sort of reserve status while we are doing the study. And then after we have a blueprint from scientists who could tell us what is necessary to sustain the fishery, what is necessary to sustain the forests, what is necessary to make sure the productivity of this resource is unimpaired not just for our use but for future generations. That is the time to make the decision about whether we are going to release areas or whether we are going to protect them permanently.

I feel like we ought to have that study done, we ought to have that blueprint, we ought to have that information before we make decisions that are irrevocable decisions about the fate of this 4 million acres.

The Forest Service has come before our committee, and we have asked them, "Can you tell us that with the passage of this bill the fisheries are going to be there for the benefit of future generations?" They have not provided that assurance to us. We have asked them can they tell us will the productivity of these forests remain unimpaired for the benefit of future generations? Of course, they cannot tell us that that occurs.

I just ask the Members of the House to change the way we look at these issues from simply allocating so much land here and so much land here and so much land here, toward a process which is based on a scientific blueprint so that we can sustain the ecological systems.

It may not happen with this bill, but it is going to have to happen.

Mr. VENTO. Mr. Chairman, if the gentleman would yield further, I know that he shares and I share concern about these arboreal forests in the foothills and in the Rocky Mountain areas. I just think that the problem is dealing with general forest management practices, that system has to lend itself to deal with these type of questions. We should not put that burden on the wilderness designation here.

The measure that we have before us, which Congressman WILLIAMS and I have written, your committees have supported. It is nearly twice the amount of wilderness designated as the Forest Service recommends. So we certainly are not standing behind the Forest Service in that sense. We are moving out aggressively to have a sound plan. I hope that, working together, we can deal with the forest management practices and correct the inefficiencies and the problem with it.

The gentleman before repeated his concern about the low-cost timber sales. I strongly support the gentleman from Pennsylvania and the gentleman from Indiana with regard to eliminating below-cost timber sales. We do not have that issue before us. Again, the solution dealing with that is not this proceeding.

Mr. JONTZ. Reclaiming my time in order to respond very quickly to the subcommittee chairman, that issue is before us because when we release these forests for general forest purposes, what we are releasing them to is timber sales.

□ 1700

We can predict, based on all the past experience, that these timber sales are going to lose money. They are losing money now. These are more remote areas, these are more fragile areas, these are more areas where it is difficult to regenerate timber. I know the gentleman understands that.

I appreciate our subcommittee chairman being willing to take up these issues at some other time. I think they ought to be taken up now.

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise with my colleagues from Montana in opposition to the Kostmayer amendment and urge my colleagues to oppose it in the strongest way.

Mr. Chairman, although the gentleman's intentions to provide for a study of the Northern Rockies may be honorable—and I am sure they are—to ban logging and mining on 9 million acres of Idaho's forests for 3 years would be extremely disruptive and unacceptable to Idahoans.

I do believe it is important to assure sustainability of our forests so we can provide certainty and stability for our timber-dependent communities while protecting our natural resources.

S. 1696, as amended by the William's substitute already includes a study which would "assess both environmental and economic conditions" and "identify opportunities to improve sustainability of natural resources and the economy," and it does it without banning mining and logging.

My colleague, the gentleman from Montana [Mr. WILLIAMS], has worked hard and honorably to draft reasonable legislation, with the help of Montanans, to settle the roadless area question in his State. Next spring, I hope to follow his lead and introduce legislation, shaped by Idahoans, to bring resolution to the roadless area question in Idaho.

Mr. Chairman, the Kostmayer amendment would be disruptive and bring turmoil into the lives of many Idahoans, including timber workers and miners. Therefore, I strongly urge my colleagues to oppose the Kostmayer amendment.

Mr. KOSTMAYER. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Chairman, I rise in support of the Kostmayer substitute because it holds three distinct advantages over the bill before us: it is a better deal for the environment, it is a better deal for the American taxpayer, and it is a better deal for the economy of Montana.

Mr. Chairman, this substitute provides this House with the opportunity to inject an important dose of scientific and economic reality into what has been—for too long—a parochial and political debate. The substitute offered by my colleague from Pennsylvania is designed to ensure that we deal with the question of Montana wilderness owned by the citizens of the United States the way biologists and economists would have us do it, rather than the way the timber industry wants it done.

This is not to say that Messrs. WILLIAMS and VENTO do not deserve a great deal of credit for improving the bill sent to us by the Senate. Both deserve our thanks for elevating several crucial roadless areas to a protected status, for greatly improving water rights and release language, and for taking the initial steps toward dealing with the issue of wilderness through an ecosystem wide approach.

My argument is not with the efforts of my two friends from Montana and Minnesota, Mr. Chairman—they have worked diligently. My argument is with the vision, or rather the lack thereof, that the Federal Government has traditionally employed in determining questions of the management of the national forest, which are owned by the people of the United States of America.

We have ignored for too long the unalterable fact that this traditional State-by-State and section-by-section approach to wilderness designation has been costly to the owners of America's wilderness, has been costly to the forests and costly to sound ecology. It has isolated though wildlife habitat and fragmented ecosystems. It has severed natural wildlife migration corridors and threatened the survival of many species.

It should be noted, Mr. Chairman, that of the forests that covered North America less than 300 years ago, no more than 5 percent remain. In contrast, less than 20 percent of the Brazilian rain forests, about which we have heard so much, have been destroyed. The Northern Rockies ecosystem, of which Montana is the core, is the last intact ecosystem in the lower 48 States. It represents the last remaining habitat for grizzly bears, woodland caribou, moose, and many other species.

These species do not recognize State boundaries, and they do not understand the concept of planning areas. Biologists understand that the survival of these species depends on understanding their habitat needs and protecting the little habitat they have left. That is precisely what the Kostmayer substitute before us today seeks to do.

As important as the biological, the ecological, the green reasons for saving this land are, Mr. Chairman, there is at least a strong and economic argument, another green argument, to be made for changing our approach to wilderness protection.

To begin with, allowing timber cutting in the remaining roadless lands of Montana's forests will, as the gentleman from Indiana pointed out, without question, lead to millions of dollars of additional losses for the U.S. taxpayer through below-cost timber sales. Because the tree stands on Montana's remaining roadless areas are high, dry, and cold—in the professional forester's parlance—they are not particularly valuable as commodities. Because they are so remote, the cost of building roads and otherwise preparing the timber for sale is quite high. This mismatch between timber value and cost of management has already, using accounting principles accepted everywhere but the U.S. Forest Service, resulting in every one of Montana's national forests operating at a loss in the last 3 years. In fact, timber activities in the forests the substitute seeks to protect cost the Treasury nearly $50 million last year alone, and this figure does not even reflect the environmental costs of stream degradation and other pollutants.

Amazingly, Mr. Chairman, statistics on below-cost timber sales are not even the most compelling economic argu-

ment for preventing further cutting in the roadless lands.

One of the persistent arguments against preserving wilderness has always been the detrimental effect it has on local economies through loss of jobs in the timber industry. Mr. Chairman, we now know these arguments are false. They are dead wrong. A study dated March 1992, by Thomas Michael Power, chairman of the economics department of the University of Montana, shows that the entire short-term employment impact of protecting all remaining roadless lands in Montana would be 600 jobs. That is to say, that if we adopt this substitute—Montana would lose a total of 600 jobs. This represents roughly 0.2 percent of the 380,000 jobs in the counties of Montana which include Forest Service lands.

Significantly, Mr. Chairman, the jobs being created in Montana depend on a healthy forest. Jobs in fishing, tourism, and recreation lead the way in job growth. The Powers study also demonstrates that more and more of the jobs being created result from people taking advantage of information-age technology to move their base of operations to so-called high-amenity areas like Montana's national forest counties. In total, the Powers study shows that economic growth in Montana is not related to further cutting in Forest Service roadless lands. In fact, it shows that allowing further logging is a recipe for stunting the job growth that is occurring and dooming the long-term economic health of the region.

For all the reasons I have outlined above, I call on my colleagues to support the substitute to save the remaining roadless lands in Montana's national forests. To do otherwise, Mr. Chairman, is a bad deal for the environment, a bad deal for the American taxpayer, and a bad deal for Montanans who care about the future of their State.

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

Mr. Chairman, I have three recent letters that I would like to quote from. Not only is the Vento-Williams bill unacceptable, but even more so, the Kostmayer bill.

One of these letters is from the Pyramid Lumber Co. and states:

> Shortly after our second meeting, we were told that Pat would not consider the Nevada Mountain area for wilderness because it had never been proposed by anyone in the past.

Mr. Noonan also said that snowmobilers were against the Nevada Mountain Wilderness.

The Lincoln District Ranger was also opposed to formal wilderness for an area, as there are at least 250 mining claims involved, and the Forest Service thought also that local elk herd could be managed much better if the area was not formal wilderness.

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□ 1710

However, during the Committee on Interior and Insular Affairs hearing, the gentleman from Minnesota [Mr. VENTO] included a Nevada mountain area in his amendments to the bill. That letter, in its entirety, will be included in the Record.

> September 28, the Montana wilderness bill, as negotiated by Senators Baucus and Burns is not totally acceptable, not totally acceptable, to the mineral extraction industry, is considered an adequate bill to satisfy all constituents. Please use your best efforts to defeat the provisions proposed by Representatives Williams and Vento which restrict and change the Baucus-Burns bill.

From the National Water Users Resource Association, from Fairfax Drive, Arlington, VA—also opposes the Baucus-Williams or the Vento-Williams legislation and supports the compromise by the Senators.

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

Mr. MARLENEE. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman from Montana [Mr. MARLENEE] for yielding and his comity in this issue.

The gentleman and I began service in Congress together, and I appreciate his point of view, but do not agree in this case. We agree in terms of opposing the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER], and I assure my colleagues that there has been no idea of collaboration or cooperation with Congressman KOSTMAYER in this other than the fact, as I said, that I understand what they are driving at. I do not think the data base exists to make the types of decisions that our colleague from Pennsylvania [Mr. KOSTMAYER] is asking us to make.

In fact, as the gentleman knows, the process that we have before us is the system that produces the information. I would agree there are defects in the system, the decisionmaking process that we go through. But nevertheless, Mr. Chairman, I think that we certainly cannot trade this for the type of offer that our friend, the gentleman from Pennsylvania [Mr. KOSTMAYER], is making for us, and, as I indicated before, I just wanted to make it clear that I oppose this.

Mr. Chairman, I think the substitute that the gentleman from Montana [Mr. WILLIAMS] and I put together that has survived through the committee process in the House today is a good proposal. It is a balanced one. We surely will have the opportunity to invite different issues with regard to other matters with regard to forests, general management practices such as below-cost timber sales and other issues, but they are not addressed in this particular issue, and they will, I think, continue.

Mr. Chairman, I would suggest to all the Members of the House that we better think seriously about some of the proposals that we are talking about in terms of an ecosystem approach. We find that in the Pacific Northwest, and I think we are going to find again in other areas, we are going to have to come up with answers and responses to that because the general pattern and policy of forest practices has not done the job with regard to many of the laws that we have articulated, and I do not know that we are prepared to change many of the laws. I think we are going to have to custom make or change some of the forest practices that we have.

So I rise in opposition today to the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER], and I thank my colleague and friend, the gentleman from Montana [Mr. MARLENEE] for having yielded me some time.

Mr. Chairman, while I commend my friend and colleague, Mr. KOSTMAYER, for his sincere effort to bring environmental protection to the State of Montana, I must oppose his substitute. It has several serious problems.

The Kostmayer substitute designates wilderness areas that may not be of sufficient quality to become components of the national wilderness preservation system. We have not had the opportunity to review these areas to ensure that we are not creating inferior wilderness areas. It appears that this amendment attempts to use the wilderness designation process to solve problems on how general national forest lands are being managed. I agree that there are problems with timber sales and other activities in the national forests, but the wilderness system was not designed and must not be the vehicle for solving these problems. We can correct forest management problems without diluting the quality of the wilderness system. The purpose of wilderness is not to stop all timber sales, but to protect wild lands that have special unique qualities, not a designation to be used as a heat shield against bad forest management practices.

The Kostmayer amendment designates numerous wild and scenic rivers that have had no legislative review whatsoever. The Interior Committee has moved forward numerous wild and scenic river bills and has a process for reviewing all candidates for this designation. The rivers in this amendment have not been through this process and have not been given the necessary scrutiny. We've held no hearings on these wild and scenic river proposals.

The ecosystem study provided for in this Kostmayer amendment has interim protection provisions that stops all development on. roadless lands whether or not they are designated wilderness. This is unfair to the workers and communities that are looking to this bill to give them some certainty as to what lands can be used for non-

wilderness activities. The result of this provision is that no lands would be released to nonwilderness uses as a result of the passage of this bill. The crisis we seek to solve would continue unabated.

Mr. Chairman, the Kostmayer amendment has some worthy intentions, no question about that point. However, it is far too extreme and if we adopt it, it would surely kill the process we are engaged in to resolve the Montana wilderness issue and, thus, prevent millions of acres of roadless lands from receiving the protection they need.

I urge my colleagues to defeat it.

Mr. KOSTMAYER. Mr. Chairman, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. KOSTMAYER] for yielding this time to me and will not on his time again refer negatively to his legislation. I do want to commend the gentleman from Pennsylvania and others who have spoken in his support and the support of his amendment because they do understand the necessity of such important environmental matters as protecting wildlife corridors and trying to not designate wilderness in such a way that we only have wilderness islands left which are unconnected one to the other.

The gentleman from Pennsylvania [Mr. KOSTMAYER] and others, and I include myself among them, recognize that the Congress of the United States must begin to pass wilderness legislation that gives recognition to the direction in which our rivers and streams flow, that gives recognition to the natural movement of our great wildlife. Heretofore, it seems to me, the Congress has primarily given too much recognition to political boundaries and not enough consideration to environmental realities on the ground.

I have in the legislation that is the basic bill before us placed an economic and ecosystem study that achieves much of what I think the gentleman from Pennsylvania would like to see achieved in the northern Rockies, and that is a full review of how it is we can continue to extract natural resources and yet appropriately protect the environment of the northern Rockies. My economic and ecosystem study is intended to do that. It is one of the most critically important parts of the legislation.

Finally, Mr. Chairman, I would like to say, in support of my own legislation, that Montana enjoys a State which has the greatest hunting season, the greatest fishing in the world, in the world, right here in the United States, in the last best place called Montana. The final vote that we will have today will be on legislation which preserves and protects wildlife habitat and fish-spawning grounds in a manner that ensures that Montanans and Americans will continue to enjoy the very best quality hunting and fishing opportunities on earth right in this country in the place called Montana.

Mr. MARLENEE. Mr. Chairman, as we bring this debate to a close on a number of different proposals for the State of Montana, all of the proposals have been largely influenced by those who do not live within the boundaries of the State. Let me address one of the things that my colleague from Montana has proposed as part of his piece of legislation, the Vento-Williams bill, an economic and ecosystem study.

My question to that study is: What will it cost? How long will it take? How much redtape will be involved with it? And, under a friendly administration, the study's conclusions could be biased toward preservation, such as the "Greater Yellowstone Visions" document was biased toward preservation.

□ 1720

Will this study in fact add to the below-cost timber sales that my colleague from Pennsylvania spoke to? Is that what we want to do? Will that cost be relegated and chalked up on the cost of timber sales?

We are putting more work into management of the public lands. We are dealing with issues in the economic and ecosystem study that the Forest Service already addresses.

So it appears to me that this study that is contained in the Williams-Vento bill is duplication and costly and could well contribute to more below-cost timber sales.

Mr. Chairman, I would urge my colleagues to at this time vote against both Kostmayer and against the Williams-Vento proposal. It is unfortunate that we have arrived at this point, but I do not see that as the vehicle to resolve the problem, go to conference and come back to the floor of the House and finalize the question of wilderness, recreation, and professional management in the State of Montana.

Mr. Chairman, I urge Members to vote no on Kostmayer and "no" on Williams-Vento.

Mr. Chairman, I include the following correspondence for the RECORD.

NATIONAL WATER RESOURCES ASSOCIATION,
*Arlington, VA, October 2, 1992.*

Hon. RON MARLENEE,
*U.S. House of Representatives, Washington, DC.*

DEAR CONGRESSMAN MARLENEE: The National Water Resources Association would like to emphatically voice our strong objections to the version of the Montana Wilderness bill which was adopted by the House Interior Committee on September 16, 1992.

First of all, it is important to note that the NWRA is not categorically opposed to additional wilderness areas in the West. However, in this case, we are extremely concerned about the unquantified federal reserved water right that the Williams-Vento substitute creates. Not only does this seriously hamper the ability of all Montanans to continue to determine what has been their historic right—the use of water within their own state boundaries—but it sets an extremely dangerous precedent for other states, especially in the West. Granting federal reserved water rights for wilderness areas, where prior appropriation systems are utilized to administer water rights, will seriously impair the development and management of precious water resources by the state.

The use of water in Montana is best left to the people who live and work every day in the State of Montana and know how this important resource is most efficiently used. The language in the Williams-Vento substitute is yet another example of the federal government overstepping its bounds and intervening in state matters where it clearly does not belong.

Moreover, the Williams-Vento language was never thoroughly discussed in any House Interior Committee hearing, nor has this particular bill language had the benefit of discussion on the record in the House for those directly and indirectly affected. In a matter of this magnitude of importance for the state of Montana, and for the precedent that it sets for other Western states and their water rights, it is vitally important that a full airing of these issues occur. Water rights have historically been left to the states for a good reason—the scarcity of this resource is best handled at the state level by those who have a thorough knowledge of its impacts.

Sincerely,

THOMAS F. DONNELLY,
*Executive Vice President.*

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BALCRON OIL,
*Billings, MT, September 28, 1992.*

Hon. RON MARLENEE,
*U.S. House of Representatives, Washington, DC.*

DEAR CONGRESSMAN MARLENEE: The Montana Wilderness Bill as negotiated by Senators Baucus and Burns, even though not totally acceptable to the mineral extraction industries, is considered an adequate bill to satisfy all constituents.

Please use your best efforts to defeat the provisions proposed by Representatives Williams and Vento which restrict and change the Baucus-Burns bill.

Among these conditions that are now considered onerous and should be defeated are:

1. The additions of more acreage to the wilderness designation.

2. The removal of the "sunset" provision that enables lands to be managed as wilderness until Congress acts on same.

3. The judicial review of the Forest Services' decisions regarding "non-wilderness" areas released from wilderness study.

4. Language creating unquantified federally reserved water rights for wilderness areas.

Again, please devote your efforts to defeating these onerous changes to the Senate Wilderness Bill.

Thank you for your assistance.

Very truly yours,

W.R. CRONOBLE,
*Vice President.*

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PYRAMID MOUNTAIN LUMBER INC.
*Seeley Lake, MT, 59868, September 15, 1992.*

Hon. RON MARLENE,
*Rayburn House Office Building, Washington, DC.*

DEAR CONGRESSMAN MARLENE: Early in 1987, several members in the timber industry, that would be affected by a Nevada Mountain Wilderness, met with members of the Helena Forest Conservation Coalition in

Lincoln, Montana, to discuss the area. Two meetings were held and boundaries were discussed. The industry felt that it would be willing to consider a Nevada Mountain Wilderness if the wilderness bill itself would contain stronger release language to assure the rest of the roadless areas on the Lincoln Ranger District would really be released for multiple use under the Helena Forest Plan.

Shortly after our second meeting, Congressman William's aid, Mr. Art Noonan, told us that Pat would not consider the Nevada Mountain Area for wilderness because it had never been proposed by anyone in the past. Mr. Noonan also said the snowmobilers were against a Nevada Mountain Wilderness. The Lincoln District Ranger was also opposed to formal wilderness for the area as there are at least 250 mining claims involved and the Forest Service thought the local elk herd could be managed much better if the area was not formal wilderness. Because of what Mr. Noonan had said, negotiations with the coalition ceased.

However, during the Interior Committee hearings on H.B. 2090, Congressman Vento included a Nevada Mountain area in his amendments to the bill. This was quite a surprise to the industry as we nor the general public were notified or allowed any input into a decision to create a wilderness at Nevada Mountain.

It is interesting to note that Congressman Williams did not include Nevada Mountain in his own original wilderness bill, yet he pushed for inclusion of it in John Melcher's wilderness bill. We feel the area is well protected under the Helena Forest Plan and should not be included in the Baucus-Burns bill by house amendments.

Sincerely,

GERALD V. PARKER,
*Timber Manager.*

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

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

Mr. Chairman, the Williams-Vento proposal is a good proposal, but it is not enough. It is too little land and protects no rivers at all in Montana. It opens up some of the most remote areas of the State for timbering, that area which is high, dry, and cold. It is inaccessible and more expensive. It will cost us a great deal of money.

In 1991 we lost over $40 million in below cost timber sales. If this proposal is adopted, we will lose more timber and more money in the future.

Mr. Chairman, finally we have an historic opportunity and an historic obligation to preserve some of the most beautiful country in North America. Let us seize that opportunity and vote for the Kostmayer amendment this evening.

The CHAIRMAN. All time having expired, the question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania [Mr. KOSTMAYER].

The amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCNULTY) having assumed the chair, Mr. DONNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 1696) to designate certain national forest lands in the State of Montana as wilderness, to release other national forest lands in the State of Montana for multiple use management, and for other purposes, pursuant to House Resolution 590, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

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

Mr. WILLIAMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by eletronic device, and there were—yeas 282, nays 123, not voting 27, as follows:

[Roll No. 455]

YEAS—282

| | | | | | |
|---|---|---|---|---|---|
| Abercrombie | Coleman (TX) | Fish | Hughes | Moran | Sarpalius |
| Ackerman | Collins (IL) | Flake | Hutto | Morella | Savage |
| Alexander | Collins (MI) | Ford (MI) | Jacobs | Mrazek | Sawyer |
| Anderson | Condit | Ford (TN) | James | Murphy | Saxton |
| Andrews (ME) | Cooper | Frank (MA) | Jenkins | Murtha | Scheuer |
| Andrews (NJ) | Costello | Frost | Johnson (SD) | Nagle | Schroeder |
| Andrews (TX) | Cox (CA) | Gallo | Johnston | Natcher | Schumer |
| Annunzio | Cox (IL) | Gaydos | Jones | Neal (MA) | Serrano |
| Applegate | Coyne | Gejdenson | Kanjorski | Neal (NC) | Sharp |
| Aspin | Cramer | Gephardt | Kaptur | Nowak | Shaw |
| AuCoin | Darden | Geren | Kennelly | Oakar | Shays |
| Bacchus | Davis | Gibbons | Kildee | Oberstar | Sisisky |
| Bennett | de la Garza | Gilchrest | Kleczka | Obey | Skaggs |
| Bereuter | DeFazio | Gillmor | Klug | Olin | Skelton |
| Berman | DeLauro | Gilman | Kolter | Olver | Slattery |
| Bevill | Dellums | Glickman | Kopetski | Ortiz | Smith (FL) |
| Bilbray | Derrick | Gonzalez | LaFalce | Owens (NY) | Smith (IA) |
| Bilirakis | Dicks | Gordon | Lancaster | Pallone | Smith (NJ) |
| Boehlert | Dingell | Goss | Lantos | Panetta | Snowe |
| Bonior | Dixon | Gradison | LaRocco | Parker | Spence |
| Borski | Donnelly | Green | Laughlin | Pastor | Spratt |
| Boucher | Dooley | Gunderson | Leach | Patterson | Stark |
| Brewster | Dorgan (ND) | Hall (TX) | Lehman (CA) | Payne (NJ) | Stenholm |
| Brooks | Downey | Hamilton | Levin (MI) | Pease | Stokes |
| Browder | Durbin | Harris | Levine (CA) | Pelosi | Swett |
| Brown | Dymally | Hastert | Lewis (FL) | Perkins | Swift |
| Bruce | Early | Hatcher | Lewis (GA) | Peterson (FL) | Tallon |
| Bryant | Eckart | Hayes (IL) | Lloyd | Peterson (MN) | Tanner |
| Bustamante | Edwards (CA) | Hefner | Long | Petri | Tauzin |
| Byron | Edwards (TX) | Hertel | Lowey (NY) | Pickett | Taylor (MS) |
| Camp | Engel | Hoagland | Luken | Pickle | Thornton |
| Campbell (CA) | English | Hobson | Machtley | Porter | Torres |
| Cardin | Erdreich | Hochbrueckner | Manton | Poshard | Torricelli |
| Carper | Espy | Horn | Markey | Price | Towns |
| Carr | Fascell | Horton | Martinez | Rahall | Traficant |
| Chapman | Fawell | Houghton | Matsui | Ramstad | Traxler |
| Clay | Fazio | Hoyer | Mavroules | Rangel | Unsoeld |
| Clement | Feighan | Hubbard | Mazzoli | Ravenel | Upton |
| | | | McCloskey | Reed | Valentine |
| | | | McCollum | Regula | Vento |
| | | | McCurdy | Richardson | Visclosky |
| | | | McDermott | Ridge | Volkmer |
| | | | McHugh | Rinaldo | Walsh |
| | | | McMillan (NC) | Ritter | Washington |
| | | | McMillen (MD) | Roe | Waters |
| | | | McNulty | Roemer | Weldon |
| | | | Meyers | Ros-Lehtinen | Wheat |
| | | | Mfume | Rose | Whitten |
| | | | Miller (CA) | Rostenkowski | Williams |
| | | | Miller (WA) | Roukema | Wilson |
| | | | Mineta | Rowland | Wolpe |
| | | | Mink | Roybal | Wyden |
| | | | Moakley | Russo | Yates |
| | | | Mollohan | Sabo | Yatron |
| | | | Montgomery | Sanders | Young (FL) |
| | | | Moody | Sangmeister | Zimmer |

NAYS—123

| | | |
|---|---|---|
| Allard | Franks (CT) | Moorhead |
| Allen | Gallegly | Morrison |
| Archer | Gekas | Myers |
| Armey | Gingrich | Nichols |
| Atkins | Goodling | Nussle |
| Baker | Grandy | Orton |
| Ballenger | Hammerschmidt | Owens (UT) |
| Barrett | Hancock | Oxley |
| Barton | Hansen | Packard |
| Bateman | Hefley | Paxon |
| Beilenson | Herger | Payne (VA) |
| Bentley | Hopkins | Penny |
| Bliley | Hunter | Pursell |
| Boehner | Hyde | Ray |
| Broomfield | Inhofe | Rhodes |
| Bunning | Johnson (CT) | Riggs |
| Burton | Johnson (TX) | Roberts |
| Callahan | Jontz | Rogers |
| Campbell (CO) | Kasich | Rohrabacher |
| Clinger | Kennedy | Roth |
| Coble | Kolbe | Santorum |
| Coleman (MO) | Kostmayer | Schaefer |
| Combest | Kyl | Schiff |
| Coughlin | Lagomarsino | Schulze |
| Cunningham | Lent | Shuster |
| Dannemeyer | Lewis (CA) | Sikorski |
| DeLay | Lightfoot | Skeen |
| Dickinson | Lowery (CA) | Slaughter |
| Doolittle | Marlenee | Smith (OR) |
| Dornan (CA) | Martin | Smith (TX) |
| Dreier | McCandless | Solomon |
| Duncan | McDade | Stallings |
| Edwards (OK) | McEwen | Stearns |
| Emerson | McGrath | Studds |
| Evans | Michel | Stump |
| Ewing | Miller (OH) | Sundquist |
| Fields | Molinari | Synar |

| | | |
|---|---|---|
| Taylor (NC) | Vucanovich | Wolf |
| Thomas (CA) | Walker | Wylie |
| Thomas (WY) | Waxman | Young (AK) |
| Vander Jagt | Weber | Zeliff |

NOT VOTING—27

| | | |
|---|---|---|
| Anthony | Guarini | Lipinski |
| Barnard | Hall (OH) | Livingston |
| Blackwell | Hayes (LA) | McCrery |
| Boxer | Henry | Quillen |
| Chandler | Holloway | Sensenbrenner |
| Conyers | Huckaby | Solarz |
| Crane | Ireland | Staggers |
| Dwyer | Jefferson | Thomas (GA) |
| Foglietta | Lehman (FL) | Wise |

□ 1745

The Clerk announced the following pair on this vote:

Mr. Conyers for, with Mr. Quillen against.

Messrs. ATKINS, CAMPBELL of Colorado, and OWENS of Utah changed their vote from "yea" to "nay."

Messrs. ANDREWS of Maine, HALL of Texas, and McMILLAN of North Carolina changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on S. 1696, the legislation just considered and passed.

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

There was no objection.

## FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

## RETURN OF ENROLLED BILL, H.R. 3379, AMENDING UNITED STATES CODE RELATING TO AUTHORITIES OF THE ADMINISTRATIVE CONFERENCE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. McNULTY) laid before the House the following message from the President of the United States, which was read:

*To the House of Representatives:*

Pursuant to House Concurrent Resolution 366, I am hereby returning the enrolled bill H.R. 3379, "An Act to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference," to the House of Representatives for the purpose of making necessary corrections.

GEORGE BUSH.

THE WHITE HOUSE, *October 2, 1992.*

## REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2532, FREEDOM FOR RUSSIA AND EMERGING EURASIAN DEMOCRACIES AND OPEN MARKET SUPPORT ACT, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 102-976) on the resolution (H. Res. 592) waiving points of order against the conference report to accompany the bill (S. 2532) entitled the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act," and against the consideration of such conference report, which was referred to the House Calendar and order to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 2681, NATIVE HAWAIIAN HEALTH CARE AMENDMENTS OF 1992

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 102-977) providing for consideration of the Senate bill (S. 2681) relating to native Hawaiian health care, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## PROVIDING FOR COMPLETION OF ACTIVITIES OF TASK FORCE TO INVESTIGATE CERTAIN ALLEGATIONS CONCERNING HOLDING OF AMERICANS AS HOSTAGES IN IRAN IN 1980

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 585 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 585

*Resolved,* That the provisions of clause 5 of rule XI requiring the adoption of one primary expense resolution for the payment from the contingent fund of the House of the expenses of 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 are hereby waived, to the end that the provisions of House Resolution 258 of the One Hundred Second Congress shall be deemed to satisfy the requirements of that clause and that, notwithstanding the adjournment of the second session of the One Hundred Second Congress sine die, the task force shall be authorized to file a final report with the Clerk of the House at any time after the adjournment of the second session of the One Hundred Second Congress sine die and before noon on January 3, 1993. The expenses of the task force may not exceed the amounts listed in the first section of House Resolution 512, as recommended to be amended by the Committee on House Administration in House Report 102-930.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. McEWEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 585 provides for the completion of the activities of the Task Force To Investigate Certain Allegations Concerning the Holding of Americans as Hostages by Iran in 1980—more familiarly/popularly known as the October Surprise Task Force.

The resolution deems that House Resolution 258 of the 102d Congress, which created the panel, serves as an expense resolution for purposes of clause 5 of rule XI until the task force files its final report.

The rule waives clause 5 of rule XI and authorizes the October Surprise Task Force to file a final report with the Clerk of the House after adjournment sine die and before January 3, 1993.

Finally, the rule adds a proviso limiting expenses to the amount approved in the first section of House Resolution 512 as amended by the House Administration Committee. This language is designed to ensure that the budget of the task force will be no higher than $1.35 million, a figure requested by the task force chairman and ranking minority member and agreed to by the Committee on House Administration.

The purpose of this resolution is to make clear that the important investigation being conducted by this task force of Foreign Affairs Committee members, and so well chaired by our distinguished colleague from Indiana [Mr. HAMILTON], with the able assistance of the ranking minority member from Illinois [Mr. HYDE], may continue after we adjourn, but no later than the end of this year, laying to rest any confusion regarding the termination date of the panel.

The resolution ensures that the task force will be able to file a final report after we adjourn—but before January 3, 1993. Chairman HAMILTON testified that the work of the task force is nearing completion. And, he and the gentleman from Illinois [Mr. HYDE] agreed that, having come this far, the task force should have the time and resources to complete the inquiry in an appropriate manner so that no lingering suspicions about the serious allegations, which led to the creation of the task force, will remain.

In fact, in testimony from the chairman and the ranking minority member of the task force, it appears to the Rules Committee that the work of the task force has been conducted with remarkable cooperation, and that the panel has operated responsibly and professionally.

Mr. Speaker, I urge my colleagues to approve this resolution, thereby per-

mitting the task force to resolve the issues that form its mandate.

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

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

Mr. Speaker, after the 1980 election, most political observers believed that the American people overwhelmingly pitched the failed Carter regime out of office because of its disastrous economic policy, the double-digit inflation, the interest rates at over 20 percent, the double-digit unemployment, losing jobs at 50,000 a week, the long lines at gas stations and the despair.

Others figured that it was the foreign policy disgraces of the Carter administration, the failed rescue of the hostages in Iran, the march of communism in Nicaragua, the support of the Sandinistas in Nicaragua and Carter's support in Angola as well as a Soviet invasion of Afghanistan. America was not in the same position of strength as it is today. All Mr. Carter could do then was send them a postcard saying, "For marching on Afghanistan we will not attend the Olympics." Many felt that that was the reason the American people turned to the strength and vision of Ronald Reagan.

A few die-hard Carter supporters who could never accept that the American people did not like inflation, skyrocketing interest rates, gasoline lines and international weakness, desired to find a conspiracy behind the demise of the Carter Presidency. In the self-fulfilling fantasies of an assortment of misfits and oddballs and conspiracy theorists those people built their own new conspiracy.

A year ago almost to the day, the Rules Committee considered a resolution creating a special House task force to investigate once and for all the rumors regarding a 1980 conspiracy. The special task force would investigate those infamous October Surprise charges.

Mr. Speaker, I had a chance to look back at those committee transcripts, and last year I predicted that the main purpose of the task force was political. It would bring up old rumors and accusations, highlight baseless charges, and right in the middle of the 1992 Presidential campaign would seek to file its report. I said that we would create the investigation, and then it would disappear and we would not bear a thing until the very last minute, probably not until days before the election.

Well, we created the task force, Mr. Speaker. Noting much has been said about the baseless conspiracy charges since, except that most newspapers and responsible organizations have discarded them for the fantasy that they are.

But let us look at the calendar. Here we are on the House floor right on time. It is October. Surprise. That is the only election October Surprise around here.

The gentleman from California [Mr. BEILENSON] has explained the House resolution. At a time when the public standing of this institution is at such a low, the House should never have started this investigation and never asked the American taxpayer to pay for this blatantly partisan political bill.

I would like to commend, however, the honorable chairman of the Rules Committee, Mr. MOAKLEY, and the distinguished gentleman from New York [Mr. SOLOMON] for coming to a compromise that takes into account the concerns of the American taxpayer. House Resolution 585 does set a limit of $1.35 million on the expenditures of the task force.

But let us not deceive anyone about the true cost of this witch hunt. It has cost the taxpayers much more than that. Other agencies have already spent well over $700,000 to meet the needs of the task force, and the figure is going up.

Mr. Speaker, when this resolution came up I made a point of order that the resolution was not correct because it did not include a primary expense resolution. There is no question at all but what that was a violation of the House rules.

However, the Parliamentarian ruled at that time that it was only temporary and, therefore, could operate under the agreement of another House committee. Republican BILL THOMAS asked Parliamentarian Bill Brown in a letter dated February 10 whether or not that was the case, and the Parliamentarian responded saying that "the expectation of a future primary expense resolution relating to the task force is logically consistent with the ruling of February 5." In other words, they are going to act expeditiously.

Here we are a year later. We have the resolution on the floor again, and they have still not done as the Parliamentarian promised would be done immediately when I objected to the violation of the rules a year ago.

□ 1800

Mr. Speaker, I wish the task force haste in drawing to a close this embarrassment in our congressional history. Although the American taxpayer should not be forced to pay for it, I hope they can report once and for all and put this issue behind us.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the minority leader.

Mr. MICHEL. Mr. Speaker and my colleagues, I rise in opposition to this procedural gimmick that will fund the October Surprise task force for the duration of this Congress.

Now, as outraged as I am about the process, I want to focus my comments on the issue of funding an investigation of incredible allegations that Reagan and Bush campaign aides were involved in any attempt to delay the release of Americans held hostage in Iran. Let there be no mistake. We are not just talking about $1,350,000 here. The FBI estimates they have spent $415,000 to assist the task force. The Treasury Department estimates they have spent over 9,000 manhours assisting the task force at a cost of over $257,000. The Defense Department has spent $1.5 million to respond to requests of the task force. The CIA has spent $132,000, and Justice has spent $23,000. The State Department has spent $100,000 just flying task force staff around the world. That brings us to $2.4 million, and I believe these estimates are low since I asked the agencies to estimate only costs they could document.

The taxpayers will spend almost $4 million chasing wild rumors. What a waste. No wonder the majority has to hide behind procedural gimmicks to provide funding for this task force.

You will recall that the Republican substitute that I offered called for limited funding and a date certain for the task force to report. The chairman of the task force, the gentleman from Indiana [Mr. HAMILTON], as I recall, responded that, "If nothing is there, I will be the first to ask that it be shut down."

The task force has already admitted publicly what most of us knew from the beginning: President Bush had absolutely no part in this so-called conspiracy.

One of the main proponents of this conspiracy theory, Mr. Gary Sick, a former national security staffer for Jimmy Carter, wrote that "At least five sources who say they were in Paris in connection with these meetings insist that George Bush was present for at least one meeting." The task force now tells us, in effect, that Mr. Sick's sources must be lying or suffering from mass hallucination, because Mr. Bush's whereabouts for the period in question are documented, and he was not in Paris.

I see the distinguished gentleman from my home State, the gentleman from Illinois [Mr. HYDE], who served as our ranking member on the task force. Might I ask the gentleman a few questions here relating to the main allegations in this conspiracy theory?

I ask the gentleman from Illinois [Mr. HYDE]: Does not Gary Sick tell us the Carter administration was negotiating a $150 million arms-for-hostages deal with Iran? Is that not what was purported?

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

Mr. MICHEL. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, that is absolutely correct. In Mr. Sick's book called "All Fall Down," he indicates that a $150 million group of arms, weapons, was ready to be shipped to Iran in exchange for the hostages.

These were weapons that the Shah had paid for earlier but were never delivered because of the difficulties with Iran. There was an embargo. Yes.

Mr. MICHEL. When were these negotiations taking place?

Mr. HYDE. If the gentleman will yield further, October 1980.

Mr. MICHEL. In the gentleman's opinion, has he seen any credible evidence to suggest the 1980 Reagan-Bush campaign engaged in a conspiracy to detain American hostages held in Iran?

Mr. HYDE. Does the gentleman mean after 7 months and about $800,000 that this body has expended out of the contingency fund, have I seen any evidence that the 1980 Reagan-Bush campaign engaged in a conspiracy to detain American hostages held in Iran? What that the gentleman's question?

Mr. MICHEL. That is the question.

Mr. HYDE. The answer is no.

Mr. MICHEL. I thank the gentleman. In the gentleman's opinion, he has seen any credible evidence to suggest that the meeting took place in Paris in October 1980?

Mr. HYDE. You mean, in Madrid in July 1980?

Mr. MICHEL. That would be the one.

Mr. HYDE. No. The answer to that is no.

Mr. MICHEL. As I understand it, Gary Sick says in his book "October Surprise" that one fundamental question looms above all others: Did William Casey, without the knowledge of the United States Government, travel to Paris during the period October 15 to 20, 1980, to meet with Iranian and Israeli representatives to arrange the release of the United States hostages to the Reagan-Bush forces? Again, I am quoting from his book, "the answer, it appears, is yes; everything else is of secondary importance." I guess I would have to ask the distinguished gentleman here: Has he seen any credible evidence that Mr. Casey was in Paris in October of 1980?

Mr. HYDE. After 7 months and about $800,000 spent in investigating everyone from aardvark to zebra, the answer is no.

Mr. MICHEL. Mr. Speaker, it is obvious from what we have just heard that the task force in their thorough investigation has achieved one thing; by now they must have found out that many sources out there were lying, that statements that some journalist took as truth were actually fiction, and that this conspiracy theory is really a house of cards.

No meetings took place. George Bush had absolutely no involvement at the time, and the time has come to write the end, frankly, to this story. The time, it seems to me, has come to end this folly and to report to the American people that there was no conspiracy.

I would urge the gentleman from Indiana [Mr. HAMILTON], the distinguished chairman, and my friend, the gentleman from Illinois [Mr. HYDE], to orally report their findings as soon as possible and, of course, preferably before the election.

Obviously I am very much opposed to this resolution providing for the continuation of funding for the task force.

DEPARTMENT OF THE TREASURY,
*Washington, DC, September 28, 1992.*

Hon. ROBERT H. MICHEL,
*Republican Leader, House of Representatives, Washington, DC.*

DEAR MR. LEADER: Thank you for your September 22 letter requesting information on what costs the Treasury Department and related agencies have incurred for the October Surprise inquiry.

As you requested, we have prepared an estimated accounting of the cost to the Treasury Department of complying with the House of Representatives and Senate inquiries into the allegations surrounding "October Surprise." The Treasury Department has, to date, spent $257,333 on the investigation, calculated from receipt of the first House letter in September 1991 to August 21, 1992. Because the search for documents is still in progress, the full cost of the investigation to Treasury cannot yet be determined.

We asked all offices and bureaus within Treasury to provide us with the number of hours they spent responding to House and Senate inquiries, including the cost of copying documents. We did not include copying costs under $25. Copying costs were calculated at 10 cents a page.

To compute the cost to Treasury for the hours worked, we added 18% of the annual salary for a given grade and step to the annual salary and divided that amount by 2087, the official number of hours each employee works annually. We then multiplied this hourly wage by the number of hours worked by each grade and step.

Where we did not know the step, a step three was used to calculate the salary. Where we knew positions were clerical, we used the clerical salary scale. Where we did not know otherwise, we assumed that grades 5, 6, and 7, were clerical.

We have provided the number of hours worked and the cost of those hours, along with additional costs, on the attached chart.

I hope that this information is responsive to your inquiry. Please let me know if our office can be of further assistance.

Sincerely,

MARY C. SOPHOS,
*Assistant Secretary (Legislative Affairs).*

COSTS OF OCTOBER SURPRISE

| Office | Manhours | Cost | Copying and other costs |
|---|---|---|---|
| Deputy General Counsel | 30 | $1,611.00 | |
| General Counsel (Enforcement) | 596.50 | 21,069.93 | |
| General Counsel (International Affairs) | 9 | 304.74 | |
| Enforcement | 3 | 130.84 | |
| OASIA | 147.75 | 4,361.72 | |
| OFAC | 208 | 6,266.34 | |
| Customs Service | 2,193.50 | 69,001.43 | $850 |
| IRS | 4,153.75 | 88,548.27 | 750 |
| U.S. Secret Service | 1,020 | 31,260.47 | 240 |
| ATF | 992 | 32,938.17 | |
| Total | 9,353.50 | 255,493.01 | 1,840 |

Total costs, $257,333.01.

THE ASSISTANT SECRETARY
OF DEFENSE,
*Washington, DC, September 30, 1992.*

Hon. ROBERT H. MICHEL,
*Republican Leader, House of Representatives, Washington, DC.*

DEAR LEADER: In response to your September 22 letter, the Department of Defense incurred approximately $1,529,000.00 in expenses to respond to requests of the October Surprise Task Force. This figure includes all costs associated with time and material expended during the period October, 1991 through September, 1992.

I hope this will be of assistance to you.

Sincerely,

DAVE GRIBBIN.

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DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
*Washington, DC, September 30, 1992.*

Hon. BOB MICHEL,
*Minority Leader, House of Representatives, Washington, DC.*

DEAR CONGRESSMAN MICHEL: This is in response to your letter of September 22, 1992, in which you asked for costs associated with the FBI's October Surprise Task Force.

The Task Force was started on or about May 4, 1992. Normally, the FBI does not keep figures for individual investigations. However, on May 30, 1992, the tracking of certain costs was initiated. To date, those costs have been:

| | |
|---|---|
| Salaries | $318,907 |
| Benefits | 70,452 |
| Overtime | 11,333 |
| Travel | [1]15,760 |
| Total | 416,452 |

[1] Approximately $10,000 is reimbursable as a result of Congressional Staff travel.

Extrapolating from the existing data for pre-May 30th costs, and considering a reasonable amount for space, equipment, and supplies, it is estimated that to date the FBI has incurred total costs of around $500,000 for the October Surprise Task Force Investigation.

I hope this is of some assistance.

Sincerely yours,

JOHN E. COLLINGWOOD,
*Inspector in Charge, Office of Public and Congressional Services.*

U.S. DEPARTMENT OF JUSTICE—HOURS/FUNDS SPENT ON OCTOBER SURPRISE*

| Labor category | Hours | Dollars |
|---|---|---|
| Professional | 20 | $540.18 |
| Attorney | 334 | 14,583.63 |
| Paralegal | 317 | 4,943.47 |
| Clerical | 48 | 559.68 |
| Other | 20 | 283.80 |
| Subtotal | 739 | 20,910.76 |
| Cost of copying | | 1,000.00 |
| Travel | | 1,000.00 |
| Total | | 22,910.76 |

* Main Justice (Washington) expenses only. This table does not include costs incurred in United States Attorney Offices.

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NATIONAL SECURITY COUNCIL,
*Washington, DC, September 28, 1992.*

Hon. ROBERT H. MICHEL,
*Republican Leader, House of Representatives, Washington, DC.*

DEAR CONGRESSMAN MICHEL: I am responding to your September 22, request regarding what costs the National Security Council has borne in cooperation with the October Surprise congressional investigation to date.

Total professional time expended on the congressional inquiry, including, but not

limited to, identifying, producing, or making available documents and records, time spent by lawyers reviewing materials for release, and other staff time is approximately 154.2 hours. We conservatively estimate that these staff hours equate to approximately $5,760.11 of salary costs. Total nonprofessional staff time expended on the inquiry is approximately 16 hours, approximating $253.92 of salary costs. We are unable to estimate the dollar amount of other costs for supplies, long distance calls, and the like.

The NSC staff has outstanding requests from the October Surprise Task Force, which we are currently processing; therefore, we are still expending staff time and resources on the October Surprise Task Force inquiry.

If you need additional information, do not hesitate to contact Virginia Lampley at (202) 395-3055.

Sincerely,

WILLIAM F. SITTMANN,
*Executive Secretary.*

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*September 30, 1992.*

Memorandum for: Tracy Sandlin.

From: Rudolph Rousseau, Deputy Director, House Affairs, Office of Congressional Affairs.

Subject: Cost estimate.

1. As requested in Mr. Michel's letter, we have estimated the cost of our response to the various inquiries of the October Surprise Task Force. We estimate that CIA's response has cost $132,000 to date.

2. As I told you in our telephone conversation, this is a very soft estimate because some of our components did not keep records of time spent on the inquiry. We have had to make rough estimates of the cost of those components' response.

RUDOLPH ROUSSEAU.

Mr. BEILENSON. Mr. Speaker, may I inquire of my friend, the gentleman from Ohio, if the gentleman is going to yield additional time?

Mr. MCEWEN. I would say, Mr. Speaker, that I have significant requests for time, and I have been in this situation before where there were no requests for time on the other side and we used our time only to discover that a significant amount of requests appeared at the very tail end.

Mr. BEILENSON. If I may say to my friend, this gentleman, insofar as he is aware, and other members of the committee on the majority side have never misled the gentleman as to further requests for time. Until this moment we did not have any further requests for time or any requests for time. I was just offering the gentleman an opportunity to proceed. We do have one gentleman here now who either will speak at this time or shortly thereafter.

Mr. MCEWEN. It is my understanding, Mr. Speaker, that there will be only one request for time, and that there will be only one request for time on the majority side, and I will be pleased to yield to the distinguished ranking member on the Committee on Rules.

Mr. BEILENSON. At the moment that is the case, as the gentleman knows, as my friend knows.

We will be happy to proceed on our side if the gentleman would proceed first. I was simply advising the gentleman that as of now we only have one Member requesting time.

Mr. MCEWEN. I am simply advising the gentleman that I am wary of these conditions, not that the gentleman from California [Mr. BEILENSON] has engaged in this before, but, therefore, I am reluctant to use all of my time under those conditions.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I rise in opposition to this resolution, and I hope it will be defeated. It certainly does not come as an October Surprise to anyone listening to this debate right now that my primary reason for opposing this resolution is simply my belief that this entire exercise has been totally unwarranted from the very beginning.

The so-called October Surprise Task Force never should have been set up in the first place. And we certainly should not be extending its lifespan for another 3 months by virtue of adopting this resolution today. The task force ought to be shut down today, now, before any more time, effort, and money are wasted chasing after butterflies.

Mr. Speaker, two wrongs do not make a right. And in this instance, this resolution does not make right what was done wrong in the first place. Two wrongs are still two wrongs.

House Resolution 258, which established the so-called October Surprise Task Force, was cleared by the Rules Committee in October 1991—1 year ago. It was subsequently passed by the House in February 1992—8 months ago.

When this whole enterprise was being set up, Republicans strenuously objected to going forward without any budget having been established for the task force. Indeed, the task force was set up in clear violation of rule XI, clause 5, which requires the adoption of a primary expense resolution before any such task force can draw money from the contingent fund of the House.

Now, today, the House is being asked to rewrite history and say that House Resolution 258 really was a primary expense resolution after all—even though it was never presented as such when the House considered it 8 months ago.

And, just to make sure that all the bases are covered and everyone is totally confused, the resolution before us today goes ahead and waives clause 5 of rule XI anyway. Mr. Speaker, this must be the legislative equivalent of the hidden ball trick. But it is also one more example of how the majority sets aside the standing rules of the House whenever the rules get in the way of a politically motivated juggernaut.

Mr. Speaker, if there is anything good in this resolution before us today, it is one thing: A cap of $1,350,000,000 on what the task force will be authorized to spend. That figure is a lot higher than many of us would have wished, but at least it is a budget of sorts—something we should have had a long time ago. I commend the Rules Committee for including this provision in the resolution.

Returning to my principal point, however, I must say that this task force never should have been established in the first place. And it should not be perpetuated by this resolution. But the majority has been determined to do the wrong thing the wrong way since day one, as far as this particular issue is concerned.

And that is with this task force that has already wasted a million dollars of the taxpayers money, without any results at all, should be terminated now, and defeating this bill will do just that.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding me this time.

Well, Mr. Speaker, it is October, and it is not a happy new fiscal year.

The biggest surprise though is the ongoing charade fostered by the liberals in this Congress. I just cannot believe the liberals want to spend another $2.5 million for a fishing expedition, a fishing expedition for something nobody cares about.

The American people care about keeping their jobs, helping their families, paying their bills, and living within a budget, something the liberals failed to understand.

□ 1810

Let us take a look at the facts of this case. The liberals' case centers around allegations of Carter Foreign Policy Director Gary Sick. His chief witnesses are a jailed South African arms dealer and Abbey Hoffman. After 7 months, $800,000, maybe the liberals should subpoena Elvis; he could probably give them the answers they need.

Let us get serious, let us stop the political games and get down to the chores that have to be done.

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

Mr. Speaker, we on this side understand that our friends and colleagues on the other side are not in support of this resolution. We understand their feelings about it; we have from the very beginning, about a year or so ago.

I would like to tell our colleagues, if I may, I think it is fair to characterize it this way: The discussion between Mr. HAMILTON, Mr. HYDE, and the members of the Committee on Rules a day or so ago was perhaps, if one may put it this way, a little more reasonable and helpful than some of the discussion we have had here on the floor.

What I want to do, however, if I may, Mr. Speaker, just for a moment is to remind Members who may not have heard the introduction from our side here that what we have before us now is a resolution which provides for basically three things only.

First, it provides for the completion of the activities of this so-called October Surprise task force.

Second is, that it is designed to insure that the budget of the task force would be no higher than the $1.35 million, a figure requested by the task force chairman and by the ranking mi-

nority member, and agreed to by the Committee on House Administration.

And finally, it makes clear that the committee may continue its procedures and its investigations after we adjourn but no later than the end of the year. The intention, as expressed to the Committee on Rules a couple of days ago both by Mr. HYDE and by the distinguished chairman, the gentleman from Indiana [Mr. HAMILTON] was that the work of the committee would be finished by probably the middle of November, simply giving them until the end of the year to file a report.

So that is all we are doing, we are trying to bring to a conclusion and to put a limit on the amount of money this particular task force can use. Members should understand that that is what is at stake here today.

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

Mr. DREIER of California. Mr. Speaker, there is an old wildcatter expression that I have heard from some of my friends out in California. It says, "If you drill a dry hole deep enough, you are bound to strike a lot of nothing big." And clearly, that is exactly what we have found in this resolution.

It seems to me that with the action that has been taken by the October Surprise task force, we are going to continue to find a lot of nothing big.

I hope very much that we will defeat this resolution.

Mr. Speaker, there's an old wildcatter expression that says, "if you drill a dry hole deep enough, you're bound to strike a lot more nothing—big!"

Mr. Speaker, that expression applies in spades to the October surprise task force. They started drilling a dry hole last February, and the deeper they drilled the more nothing they found.

And now, some 800,000 in wasted taxpayers' dollars later, they've come to the Rules Committee to ask us to sink another $550,000 into their dry hole so they can keep drilling right up to next January 3.

And instead of bringing to this floor the proper primary expense resolution which has been reported from the Committee on House Administration, we have before us this peculiar rule that goes through all kinds of contorted English in order to avoid letting on that we are taking big bucks here.

Mr. Speaker, my colleagues will recall that last February, when the resolution establishing this task force came to the floor, the gentleman from Ohio [Mr. MCEWEN] raised a point of order against it on grounds that the report did not mention how much it would cost as is required on primary expense resolutions.

On that occasion, the Chair ruled that the resolution was not a primary expense resolution but rather an interim funding mechanism allowed under another rule. And the Parliamentarian later confirmed in a letter to the ranking Republican on the House Administration Committee that the task force would still need a primary expense resolution under House rules.

Now, lo and behold, we have a special rule out of the Rules Committee that says the February resolution shall be deemed to be the primary expense resolution, while at the same time waiving the requirement that there be a primary expense resolution.

I suppose one could conclude that the circular logic contained in this special rule is symbolic of the circular tail chasing after conspiracy mongers the task force has been forced to engage in. After a while, I'm sure, it's difficult to tell who's telling the more credible lies.

At least the minority was successful in the Rules Committee on this resolution in amending it to include an indirect reference to a spending ceiling contained in the House Administration Committee's reported resolution. That was after the majority rejected our proposal to include the actual dollar amount.

Had we not prevailed with that provision, this resolution would have been an open-ended, blank check for the task force to run up bills without limit. But even with that spending ceiling, this is still a half a million dollars too high!

So I would caution my colleagues on both sides not to be fooled into thinking that just because you see no dollar signs in this resolution, it is somehow a freebie procedural vote that will have no political consequences.

Quite to the contrary, if you vote for this resolution, you are authorizing the task force to run up bills of $1.35 million using the credit card of John Q. and Mary Citizen.

And I'm sure they will be delighted to learn that you've invested their hard-earned dollars in this bottomless, dry hole.

Is this really the kind of investment in America's future candidate Clinton is calling for? Is it any wonder we are running up bigger and bigger deficits when we throw good money after wild conspiracy theories—all for potential partisan gain? Is it any wonder the American people think less of us for our profligate ways?

Mr. Speaker, I hate to say I told you so, but we warned against this wild goose chase last February after two prominent national magazines found the same dry holes after extensive investigations into the so-called October Surprise allegations.

The time has come to put an end to this wasteful and costly drilling expedition. Vote down this resolution and shut down this investigation before we bring more shame and embarrassment on this House.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. I thank the gentleman for yielding time to me.

Mr. Speaker, the expenditure called for by this resolution has to be one of the most frivolous and wasteful proposals in Congress this year. Considering some of the other expenditures that have been approved by this body, that is saying something.

This whole October Surprise investigation debacle began as a result of unsubstantiated charges made by former Carter administration officials and others, that George Bush somehow in the midst of a Presidential campaign in October 1980, snuck away to Europe to cut some kind of deal regarding hostages. The allegation was ridiculous to begin with, and was found to be completely unfounded by every responsible group that looked at it. In fact, about the only finding that the current October Surprise task force has issued is that this bologna charge, which started it all, about President Bush being in Paris was completely unfounded.

Nonetheless, this task force has met and expended through September 30 of this year more than $769,000 to investigate this. We are now asked to increase this expenditure to $1,350,000 to conclude the investigation and present a report of the task force findings.

Actually, this amount of money is only the tip of the iceberg. This does not account for the millions that are being spent by various executive agencies as a result of this investigation and to help in it. The Defense Department alone has spent over $1,500,000. The Department of State has spent over $100,000 to pay for commercial travel for the staff of this committee to glamorous cities on the Mediterranean, and in Europe, and other places. Who knows what exotic spots they may find to travel to if Congress authorizes the continual operation of this task force. In fact, the minimum additional expenditure by other agencies already is between $2.5 and $3 million. Those expenditures will also increase if this resolution passes.

I hear many Members express concern about the disrespect in which Congress is held by a large proportion of the people of this country. I have heard a number of Members, particularly on the majority side, be critical of those who supposedly bash Congress. Well, why not? When it does things like it is doing today.

Congress is not held in disrespect because of what Members say. Congress is held in disrespect because of Congress' own actions. Passing this resolution today will only further enhance the view that people already have of this body as one that is wasteful and engages in frivolous activities.

I would like to make a prediction. I would predict that after this resolution is approved and all this additional money is spent and after the task force reports, which will conveniently be after the election, it will have been found to have produced no substantial evidence to justify this wasteful expenditure. I would urge my colleagues to vote against the resolution.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. I thank the gentleman for yielding.

First, Mr. Speaker, let me just begin by paying a compliment to the chairman of our committee, the gentleman from Indiana [Mr. HAMILTON], who has conducted this inquiry with a great deal of fairness.

I would also bring to the attention of the House, because not everything is noted around here, Chairman HAMILTON held a press conference about a month ago in which he, in effect, indicated publicly in the middle of a presidential campaign that there is no credible embarrassing evidence tying the current Republican President of the United States, George Bush, to any wrongdoing. For that I personally think Chairman HAMILTON deserves not only a great deal of credit on judgment but on integrity, for acting in a nonpartisan fashion.

Now, as far as this particular inquiry is concerned, we are really at the seventh inning of an inquiry. We are constrained in what can be said because much of what has been reported is of a confidential variety. But let me just say as a member of this committee that, in looking at the evidence, the conspiratorialists in America have not only not scored a run but they have not made a hit.

As hard as it is to believe in a world where press cynicism is rampant, no credible corroborating evidence has been presented that would lead one to think of embarrassment to high-level officials of the United States of America.

I believe this House is obligated to bring this investigation to an end because irresponsible charges should not be dignified. Yet, I must say from the perspective of the minority, that the staff of the committee has been fair and responsible. I also would say that one of the interesting lessons of this endeavor could be a case study of public journalism at its most vulnerable.

Honest, decent people appear to have been manipulated or duped by discreditable, sometimes recanters, and, despite any lack of passion at the thought, I would suggest to this body that sometimes American public officials are decent, honorable, and honest, and sometimes those people that might make charges from other parts of the world may lack the same kind of integrity.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Indiana [Mr. HAMILTON], the chairman of the task force.

Mr. HAMILTON. I thank the distinguished gentleman from California for yielding time to me.

Mr. Speaker, I rise in support of House Resolution 585, a resolution that would provide for the completion of the investigation of the October Surprise Task Force.

The October Surprise Task Force was created in February, 1992, following the adoption of House Resolution 258. Since then, the task force has been hard at work.

To date, the task force has interviewed and deposed over 125 people. It has reviewed close to 30,000 documents and pursued investigative leads in several foreign countries.

The task force is in the final stages of its investigation. Approximately 50 witnesses still remain to be interviewed or deposed. Several important lines of inquiry still need to be pursued and about 5,000 documents need to be reviewed and analyzed. Additionally, some organizations and executive branch agencies still need to complete document production.

Among the 50 remaining witnesses, approximately 2 dozen critical witnesses have not yet been deposed. Several of these witness interviews were purposely put off until the final stages of the investigation to allow task force staff to complete interviews of related, but less important, witnesses and to analyze relevant documentary evidence. Other important witnesses have only just been located and are scheduled for interview later this month.

Access to documents and information to which no one has had previous access continues. For instance, nearly 75 percent of the almost 2,500 hours of Hashemi FISA electronic surveillance tapes have been fully reviewed. Also, thousands of classified intelligence and defense community documents have been read and analyzed.

Finally, the task force is still awaiting permission from the Governments of Israel and Iran to review documents and interview witnesses. Hopefully, we will receive such permission shortly. This will allow the task force to consider important evidence, much of which has never been addressed until now.

During the 7 months that the task force has been operating, I think we have addressed many of the concerns initially expressed by the minority. This has not been a political witch hunt. In fact, our interim report, released on July 1, reached only one conclusion—that then-candidate George Bush did not travel to Paris in October 1980, to participate in alleged secret meetings.

We have conducted this inquiry in a bipartisan fashion. The minority: has fully participated in every interview and deposition; has been free to pursue completely any leads they believe relevant; has requested and obtained documentary and other evidence; and there has been no disclosure of the names of people we have contacted during our investigation. There have been no leaks about any aspect of this investigation.

I know we are all concerned with keeping costs to a minimum and the task force has certainly done that. Indeed, the Congressional Budget Office estimated that the task force's operating budget would cost between $1.8 and $2.5 million. The actual cost of this investigation falls far below CBO's minimum cost estimate. We have worked hard to ensure that this investigation is conducted without any waste. I might add that citing estimated costs to executive branch agencies responding to task force requests is somewhat misleading. Generally, we have worked with personnel in either Congressional Affairs or FOIA offices who would be responding to requests of this nature in any case. Additionally, much of the cost was incurred by requests from the executive branch itself prior to the task force being created.

I would like to offer a final observation. The task force has been in operation since February 1992 and is in the final stages of its work. Unless the task force is allowed to complete its work, no final conclusions will be able to be reached. Such a situation is clearly in no one's interest, particularly those whose reputations have been tarnished. I would not want anyone, whether opponents or proponents of this issue, to say when we are finished that we were not thorough or complete in pursuing viable leads.

While I appreciate the perspective on the partisan nature of the debate leading to the creation of the task force, at this juncture it seems in all of our interests to see this project to its orderly conclusion on January 3, 1993, so as to put these issues to rest once and for all. I should note that while our colleague HENRY HYDE might agree with you about the partisan inception of this investigation, he has stated that it has been and continues to be conducted in a fair, professional, and unusually bipartisan atmosphere. By voting for this resolution, it allows the task force to complete its final interviews, review the remaining evidence, and complete the final report by January 3, 1993.

In sum, this investigation is proceeding in a bipartisan, cooperative manner. If the House will let us pursue this investigation to its appropriate conclusion, we are likely to be able to put this matter to rest once and for all.

I urge support for House Resolution 585.

□ 1820

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GOSS], a member of the task force.

Mr. GOSS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as a member of the committee, this gentleman is obviously constrained by what I can say, but I certainly want to echo and underscore the statements by the chairman of our Task Force and our ranking member, that fair play has been the word. I think the leadership of the Task Force has been excellent. I do not think there is any doubt there has been fair play in the conduct of the investigation.

However, the words "witch hunt" I believe does associate with some efforts by others that are going on. I think that has caused some concern,

and I agree, we need to get to the basis of this.

There will always be another reported sighting of Elvis. There is no doubt about it. There will always be fantasy land inside the Beltway. There is no doubt about that. There will always be an endless supply of nonsense that we could chase down if we wanted to around here. In fact, there is already a cottage industry in this town, as most people know, that does chase rumormongering, dissembling and even lying in trying to prove things.

The issue tonight is cost. It is a question of cost, a question of the wise use of money, of the taxpayers' dollars. Is this the best use of millions of dollars right now when dollars are precious in our country, when we are in a deficit mode. We have agencies taking money out of their other duties and diverting them to do this exercise. We are paying consultants money to do this exercise, and of course, we had these GAO costs before this thing officially started.

So what we are dealing with is are we spending the taxpayers' money wisely? Are we going to get a good return on it?

I believe the answer that is we have spent enough.

Some have suggested that we do not spell so well on this side of the aisle. Let me tell you, I am not so sure that some on the other side of the aisle add so well. We do have an additional problem. We are spending in this country more than we can afford right now. We all know that.

My view tonight is that there is not enough money, there is not enough magic, that even a Merlin could turn this dross into gold on Halloween night, and let us be sure that Halloween night is not the target.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, I thank the gentleman for yielding me this time.

I have been making notes of those points that have been made. I wanted to come up toward the last so I could cover some things that perhaps have been overlooked.

One of the significant things is something that I believe is unprecedented that was used in the investigation, and that is a House Committee using its influence to influence a Federal judge to allow someone to have leniency to come out and testify in this case. I am speaking of the chief counsel of the House Foreign Affairs Committee, Mr. R. Spencer Oliver.

I will read from the Wall Street Journal:

> Mr. Oliver has now used his influence to spring a convicted South African arms dealer from prison, presumably because this criminal can help the Democrats' October Surprise probe. The wonderfully-named Dirk Francois Stoffberg, a former South African Intelligence Agent turned arms dealer, was convicted last year of selling 1,000 handguns to a U.S. Customs Agent posing as an arms broker.

□ 1830

During his trial it was revealed that Mr. Stoffberg had threatened a Federal agent with death. Along comes Spencer Oliver, who last month wrote to U.S. District Judge Jack Weinstein informing him that Mr. Stoffberg was assisting the Foreign Affairs Committee in its investigation of the October Surprise. Mr. Oliver lobbied the judge to reduce Mr. Stoffberg's sentence.

Mr. Speaker, it also has not been brought out that there have already been more, but no less than, five independent investigations of the so-called October Surprise, one by Newsweek magazine, one by New Republic magazine. None has come up with any evidence that there is any wrongdoing, and I can only conclude that this is nothing more or less than a coverup to cover up some of those things which really are corrupt and are going on today such as the post office scandal.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman from Ohio [Mr. MCEWEN] for yielding this time to me, and I just reminded myself that this is a day that the gentleman from Illinois [Mr. HYDE] spoke of a number of months ago when he said,

> It looks like this thing is all going to come to a head around the first week of October,

in what Mr. HYDE referred to as "a lucky booking."

I say to my colleagues, The problem is you can't take the political spin off this issue, and it's a political spin at a time when we should be doing the people's work. The people's work is housing. The people's work is jobs. The people's work is the credit crunch.

We are not doing that. We are investigating this idea that somehow swamis, rug merchants and political consultants got together and held up a hostage release.

Mr. Speaker, it is no wonder America looks at this body and says, "A lot of these folks should be moved out of here. They don't care about what the real agenda of America is. They're playing political games."

Let us move on. Let us go back to the people's work.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Is it quiet enough for you, Mr. Speaker? It is for me. Just checking.

Mr. Speaker, if we are going back 12 years for political purposes to investigate a so-called surprise, then let us go back 10 more, the New Year's Eve, 1969, and January 1970, and investigate, spend some of this money, why the now Governor of Arkansas traveled to Moscow in the dead of night, 26 degrees below zero, to meet with the enemy in an enemy capital that was making every plane, and every bullet and every rifle that killed our men in Vietnam. Moscow, the Evil Empire, was running that war. I ask my colleagues, why don't we investigate that? Why don't we find out why the Governor of Arkansas' senior policy adviser, David Ipsham, went to Moscow the next year and went on to Hanoi?

I have got a photograph of Phan Van Dong I will be showing later tonight, and then he went on the radio, Mr. Ipsham, and told every American fighting man to throw down his weapons, to leave their planes, get off their ships, face court martial and desert that cause in the part of the cold war where we were fighting for freedom for the southern half of Vietnam.

Then go back 10 more years, to 1960, and study the Chicago surprise and the Texas surprise in November 1960 when the election was stolen from Vice President Richard Nixon.

I ask my colleagues, Why don't we fence some of this money, and keep this political game going and be fair about it?

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

Mr. DORNAN of California. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I have always been curious what President Wilson might really have known about the sinking of the *Lusitania*.

Mr. DORNAN of California. Nineteen hundred and sixteen, and he promised he would not take us into war. One hundred twenty-eight men were lost off the southern coast of Ireland on the *Lusitania* in May 1915, and he said he would not take us to war, and he did not. That is worth investigating.

What about Colonel House? Was Colonel House running Woodrow?

Mr. Speaker, I am glad the gentleman from Missouri brought that up.

Mr. MCEWEN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I want to preface my remarks by saying there is no one in any parliamentary body in the world I would rather serve with in any capacity than the gentleman from Indiana [Mr. HAMILTON]. He is doing a very professional and very objective job as chairman of this difficult task force, and I have absolutely no criticism, but only praise, of the manner in which this is being conducted.

I only entreat my friend to look at the matter from our perspective. Some of the most serious, heinous, egregious charges have been floating around this country from sources hardly friendly to the Republican administration and about people who are dead and cannot defend themselves, and we Republicans have been sitting here listening to these charges made in the press, in

books, on talk shows, against Bill Casey who is dead, against many other people, against the now President, then Vice President, George Bush, then candidate George Bush.

We do not characterize our task force as engaging in a witch hunt, but I do not know how I would characterize what the GAO did for months before that unbeknownst to the majority looking into this.

When we talk about the expenses in this search for the Emerald City of Oz, for the smoking gun that we have not found, and we add up the cost, it is going to go far beyond what we are talking about here and months and months of interviewing people to no end.

Now the gentleman said that the minority leader, and possibly myself, came awfully close to violating the rules. I want the gentleman to know I looked at the rules, I have discussed it with counsel at great length, and I think characterizing the totality of the evidence thus far as amounting to zero in terms of substantiating these charges is not a breach of the rules, and I did it with much soul searching and much review of counsel.

Additionally, Mr. Speaker, on this September 23, I said the same thing in the Committee on House Administration in a colloquy with the gentleman from Connecticut [Mr. GEJDENSON] while seated right next to the gentleman from Indiana.

So, I do not think we violated any rules.

But I can only say this: There are lots of places to spend the millions of dollars that are going to be spent on this thus far fruitless search. There is no credible evidence that we have found. But when this story is told, and I do look forward, I really look forward, to the final report, we are going to hear a story that is incredible. We are going to hear about lying, about deception, about manipulation of the media and by the media, and it will make fascinating proportions, and I only hope that the movie that Mr. Sick intends to make out of his fantasy will include some of the ideas with suggestions in the scenario that we will provide.

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

Mr. HYDE. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, I just want to thank the gentleman from Illinois [Mr. HYDE] for the very gracious comments he made about me and return them.

We both have recognized that this has been an extremely difficult and volatile matter to get into. I have enjoyed my relationship with him. He has conducted himself in a highly professional manner. Our personal relationship has been excellent, and so has the relationships between our staffs, and I am grateful to him for that.

I also recognize that it came for him during a very difficult time personally, and so it was all the more difficult, and he has my accommodation and my praise.

Mr. HYDE. Mr. Speaker, I thank the gentleman from Indiana [Mr. HAMILTON], and I promise not to use that in the campaign, but I certainly appreciate everything he has said.

Mr. MCEWEN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me begin by saying to my colleagues from the Committee on Rules that my reticence at us having so many requests and their not having so many may have left an impression that I was skeptical. I apologize for that. The gentleman from California, as I have said publicly and privately many times, is the most fair individual with whom I have had the privilege of serving both on the Permanent Select Committee on Intelligence and the Committee on Rules, and the mere fact that I have time here is his generosity in yielding me 5 minutes.

Mr. Speaker, on February 5, I rose when this resolution was before us and made a point of order against consideration on the grounds that the report did not include a total amount of funds to be funded as required under House rule XI, clause 5(a). At that time the Chair overruled my point of order on the grounds that the resolution was not a primary expense resolution, but just interim funding.

The following day in a letter from the gentleman from California [Mr. THOMAS] to the Parliamentarian, Bill Brown, the Parliamentarian responded by saying that it would be deemed for the moment that the expectation of a future primary expense resolution relating to the task force is logically consistent with the ruling of yesterday.

□ 1840

In other words, the fact is it was only temporary and immediately the majority would come to the floor with a request for a funding resolution.

Mr. Speaker, here we are in October, 72 hours before adjourning. We have before us a rule that does not do that. In other words, my point of order made in February was absolutely correct and it was a partisan ruling to insinuate otherwise. We have proof of the pudding as to here we are. This is an exercise not in legislation, not in legislative activity. This is a partisan political act that has been an embarrassment from day one. We now say that they can go until even after sine die, that they can make the report. Hopefully by the end of this 102d Congress this additional chapter to the embarrassment to our country will be drawn to a close and we can begin the 103d Congress on a new sheet.

Mr. Speaker, I regret that we have come here, and I urge my colleagues to vote no on the resolution.

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

Mr. Speaker, in concluding I do want to say again that we at the Committee on Rules believe that the task force should have the time and the resources to complete the inquiry in an appropriate manner so that no lingering suspicions about the serious allegations which have led to the creation of the task force in the first instance will remain.

To reiterate also that which I said a little bit earlier, the resolution simply provides for the completion of the activities of the task force no later than the end of this year, but after we do adjourn, which hopefully will be in the next 3 or 4 days, and to ensure that the budget of the task force will not be any higher than $1.35 million, apparently an amount that both the majority and the minority Members have agreed upon.

Mr. LIVINGSTON. Mr. Speaker, surprise, surprise. It is October 1, and the Democrats are surprising the taxpayers with the bill for the Democrats' political witch hunt: $1.3 million for the House. Cha-ching; $1.5 million for the Defense Department. Cha-ching; and $415,000 for the FBI. Cha-ching.

And don't forget the Treasury Department, the CIA, the State Department, the U.S. Senate, the GAO, and more for a grand total approaching $5 million, Cha-ching Ba Da Bing.

All to slander the President by spreading the outrageous allegations of proven liars and con men.

This rule is before us because the Democrats are trying to waive the House rules.

Rule XI requires that payments out of the contingent fund of the House must be accompanied by a primary expense resolution, or a budget. After numerous efforts by the minority, the Parliamentarian belatedly ruled that we were right, the task force was in violation of rule XI and needed a budget.

So, today we come not to consider a budget, but to waive rule XI. Surprise, rule XI is gone. Now we don't need a budget. Maybe the Democrats should just waive the Parliamentarian.

The flagrant manipulation of House rules indicates the lengths that some conspiracy-minded Democrats will go to besmirch the President. This investigation is a waste of time and should be stopped.

Mr. ROSE. Mr. Speaker, I rise in support of House Resolution 585 which provides that the expenses of the October Surprise Task Force may not exceed the amounts listed in House Resolution 512, as recommended to be amended by the Committee on House Administration in House Report 102–930.

The amendment of the Committee on House Administration is the product of the Subcommittee on Accounts which conducted a hearing on and markup of House Resolution 512 on September 23. At that session, the chairman of the task force, the Honorable LEE HAMILTON presented and justified a very detailed budget proposal covering the second session. Additionally, the ranking minority member of the task force, the Honorable

HENRY HYDE testified. He indicated that, while he believed in a quick conclusion to the investigative phase of the inquiry, he was satisfied with the amount of resources allocated to the minority side.

After a period of questioning, the subcommittee adopted an amendment approving Chairman HAMILTON's request for $1,350,000 and limiting the amount available for the procurement of consultant services to $950,000. This total authorized amount and concomitant consultant limitation constitute the principal elements of the first section of House Resolution 512, as amended, which is referenced in House Resolution 585, now pending before the House. The subcommittee's amendment, also, included a provision prohibiting the use of funds with respect to any report of the task force to be submitted during the period beginning on the date on which the resolution is agreed to and ending on November 3, 1992.

At a meeting held on September 23, the full committee adopted the amendment from the Subcommittee on Accounts after concurring in a minority amendment to strike the provisions regarding the prohibition on the use of funds with respect to the task force report. It should be noted that the stricken provision was originally inserted as a measure of good faith by the majority to prevent the report from becoming an issue in the Presidential election.

Regarding the merits of the amendment, the amount of $1,350,000 is not unreasonable for this type of investigation. Other major house investigations have involved substantial sums, such as the Iran-Contra matter, high profile ethics investigations, and judicial impeachment proceedings. In fact, it is clear that Chairman HAMILTON has made every prudent effort to limit and minimize the cost of this investigation. For example, where necessary, he has used individuals, already, employed by the FBI, the U.S. Customs Service, and the Bureau of Alcohol, Tobacco, and Firearms and the task force has worked, primarily, with borrowed and used equipment.

Of most importance, I would argue that it would not be prudent to cut off funding for the task force at this time when it is nearing the conclusion of its work. Providing funds through the end of the session will enable the task force to complete its work and issue a final report in a professional and timely manner.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

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

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

RECORDED VOTE

Mr. MCEWEN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 181, not voting 30, as follows:

[Roll No. 456]

AYES—221

| | | |
|---|---|---|
| Abercrombie | Gordon | Pallone |
| Ackerman | Hall (TX) | Panetta |
| Alexander | Hamilton | Pastor |
| Anderson | Hatcher | Payne (NJ) |
| Andrews (ME) | Hayes (IL) | Payne (VA) |
| Andrews (NJ) | Hefner | Pease |
| Andrews (TX) | Hertel | Pelosi |
| Annunzio | Hoagland | Perkins |
| Anthony | Hochbrueckner | Peterson (FL) |
| Aspin | Horn | Peterson (MN) |
| Atkins | Hoyer | Pickett |
| AuCoin | Hughes | Pickle |
| Bacchus | Jacobs | Poshard |
| Beilenson | Jenkins | Price |
| Bennett | Johnston | Rahall |
| Berman | Jones | Rangel |
| Bilbray | Jontz | Reed |
| Blackwell | Kanjorski | Richardson |
| Bonior | Kaptur | Roe |
| Borski | Kennedy | Roemer |
| Boucher | Kennelly | Rose |
| Brewster | Kildee | Rostenkowski |
| Brooks | Kleczka | Rowland |
| Brown | Kolter | Roybal |
| Bruce | Kopetski | Russo |
| Bryant | Kostmayer | Sabo |
| Bustamante | LaFalce | Sanders |
| Cardin | Lancaster | Sarpalius |
| Carper | Lantos | Savage |
| Carr | LaRocco | Sawyer |
| Clay | Laughlin | Scheuer |
| Coleman (TX) | Lehman (FL) | Schroeder |
| Collins (IL) | Levin (MI) | Schumer |
| Collins (MI) | Levine (CA) | Serrano |
| Conyers | Lewis (GA) | Sharp |
| Cooper | Long | Sikorski |
| Costello | Lowey (NY) | Sisisky |
| Cox (IL) | Luken | Skaggs |
| Coyne | Manton | Skelton |
| Darden | Markey | Slattery |
| de la Garza | Martinez | Slaughter |
| DeFazio | Matsui | Smith (FL) |
| DeLauro | Mavroules | Smith (IA) |
| Dellums | Mazzoli | Solarz |
| Derrick | McCloskey | Spratt |
| Dicks | McCurdy | Stark |
| Dingell | McDermott | Stokes |
| Dixon | McHugh | Studds |
| Donnelly | McMillen (MD) | Swett |
| Dooley | McNulty | Swift |
| Downey | Mfume | Synar |
| Durbin | Miller (CA) | Tallon |
| Dymally | Mineta | Tanner |
| Early | Mink | Thornton |
| Eckart | Moakley | Torres |
| Edwards (CA) | Mollohan | Torricelli |
| Engel | Moody | Towns |
| English | Moran | Traficant |
| Espy | Mrazek | Traxler |
| Evans | Murphy | Unsoeld |
| Fascell | Murtha | Valentine |
| Fazio | Nagle | Vento |
| Feighan | Natcher | Visclosky |
| Flake | Neal (MA) | Washington |
| Ford (MI) | Neal (NC) | Waters |
| Ford (TN) | Nowak | Waxman |
| Frank (MA) | Oakar | Wheat |
| Frost | Oberstar | Whitten |
| Gaydos | Obey | Williams |
| Gejdenson | Olver | Wolpe |
| Gephardt | Ortiz | Wyden |
| Gibbons | Orton | Yates |
| Glickman | Owens (NY) | Yatron |
| Gonzalez | Owens (UT) | |

NOES—181

| | | |
|---|---|---|
| Allard | Broomfield | Coughlin |
| Allen | Browder | Cox (CA) |
| Applegate | Bunning | Cramer |
| Archer | Burton | Cunningham |
| Armey | Byron | Dannemeyer |
| Ballenger | Callahan | DeLay |
| Barrett | Camp | Dickinson |
| Barton | Campbell (CA) | Doolittle |
| Bateman | Campbell (CO) | Dornan (CA) |
| Bentley | Chapman | Dreier |
| Bereuter | Clement | Duncan |
| Bevill | Clinger | Edwards (OK) |
| Bilirakis | Coble | Edwards (TX) |
| Bliley | Coleman (MO) | Emerson |
| Boehlert | Combest | Erdreich |
| Boehner | Condit | Ewing |
| Fawell | Lewis (FL) | Ros-Lehtinen |
| Fields | Lightfoot | Roth |
| Fish | Lloyd | Roukema |
| Franks (CT) | Lowery (CA) | Sangmeister |
| Gallegly | Marlenee | Santorum |
| Gallo | Martin | Saxton |
| Gekas | McCandless | Schaefer |
| Geren | McCollum | Schiff |
| Gilchrest | McDade | Schulze |
| Gillmor | McEwen | Shaw |
| Gilman | McGrath | Shays |
| Gingrich | McMillan (NC) | Shuster |
| Goodling | Meyers | Skeen |
| Goss | Michel | Smith (NJ) |
| Gradison | Miller (OH) | Smith (OR) |
| Grandy | Miller (WA) | Smith (TX) |
| Green | Molinari | Snowe |
| Gunderson | Montgomery | Solomon |
| Hammerschmidt | Moorhead | Spence |
| Hancock | Morella | Stallings |
| Hansen | Morrison | Stearns |
| Harris | Myers | Stenholm |
| Hastert | Nichols | Stump |
| Hefley | Nussle | Sundquist |
| Herger | Oxley | Tauzin |
| Hobson | Packard | Taylor (MS) |
| Hopkins | Parker | Taylor (NC) |
| Houghton | Patterson | Thomas (CA) |
| Hubbard | Paxon | Thomas (WY) |
| Hunter | Penny | Upton |
| Hutto | Petri | Vander Jagt |
| Hyde | Porter | Volkmer |
| Inhofe | Pursell | Vucanovich |
| James | Ramstad | Walker |
| Johnson (CT) | Ravenel | Walsh |
| Johnson (TX) | Ray | Weber |
| Kasich | Regula | Weldon |
| Klug | Rhodes | Wolf |
| Kolbe | Ridge | Wylie |
| Kyl | Riggs | Young (AK) |
| Lagomarsino | Rinaldo | Young (FL) |
| Leach | Ritter | Zeliff |
| Lehman (CA) | Roberts | Zimmer |
| Lent | Rogers | |
| Lewis (CA) | Rohrabacher | |

NOT VOTING—30

| | | |
|---|---|---|
| Baker | Hall (OH) | Livingston |
| Barnard | Hayes (LA) | Machtley |
| Boxer | Henry | McCrery |
| Chandler | Holloway | Olin |
| Crane | Horton | Quillen |
| Davis | Huckaby | Sensenbrenner |
| Dorgan (ND) | Ireland | Staggers |
| Dwyer | Jefferson | Thomas (GA) |
| Foglietta | Johnson (SD) | Wilson |
| Guarini | Lipinski | Wise |

□ 1902

Messrs. APPLEGATE, CAMPBELL of Colorado, and CLEMENT changed their vote from "aye" to "no."

Ms. SLAUGHTER changed her vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. BEILENSON. 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 House Resolution 585, the resolution just agreed to.

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

There was no objection.

## PERSONAL EXPLANATION

Mr. SENSENBRENNER. Mr. Speaker, due to a death in my family, I was not present.

Had I been present, I would have voted "yea" on rollcall vote number 451, "nay" on rollcall vote number 452, "yea" on rollcall vote number 453, "nay" on rollcall vote number 454, "nay" on rollcall vote number 455, and "nay" on rollcall vote number 456.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 529 AND H.R. 4551

Mr. CAMPBELL of California. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of House Joint Resolution 529 and H.R. 4551.

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

There was no objection.

## APPOINTMENT OF CONFEREES ON H.R. 4996, JOBS THROUGH EXPORTS ACT OF 1992

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4996) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut? The Chair hears none and without objection, appoints the following conferees: from the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. FASCELL, GEJDENSON, FEIGHAN, JOHNSTON of Florida, BROOMFIELD, and ROTH.

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

## FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974 REAUTHORIZATIONS

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2042) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

SENATE AMENDMENT: Strike out all after the enacting clause and insert:

**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 structure, 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.".

**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 of 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 spaced 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 alterations 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 35,000 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 clause (ii) and report to Congress on 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 or 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 hardwired 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 subpararaph, 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 of 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 therefor.".

(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 interested 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.

## TITLE III—WORKER'S FAMILY PROTECTION

**SEC. 301. 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 regulation 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 workplaces 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' homes 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

(vi) 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 SPEAKER pro tempore (during the reading). Without objection, the Senate amendment is considered as read and will be printed in the RECORD.

There was no objection.

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

Mr. PACKARD. Mr. Speaker, reserving the right to object, I do not object, but I rise to support H.R. 2042, and want to compliment the chairman of the subcommittee and the chairman and ranking member of the full committee for their efforts in bringing this about.

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

Mr. PACKARD. I yield to the gentleman from Virginia.

Mr. BOUCHER. Mr. Speaker, H.R. 2042, the Federal Fire Prevention and Control Act, which reauthorizes the programs of the U.S. Fire Administration, passed the House on June 3, 1991. The legislation was approved in the other body on September 29 together with several amendments which I will describe briefly.

The first amendment is technical in nature and facilitates the implementation of Public Law 101–391, the Hotel and Motel Fire Safety Act. The amendment deletes the requirement that the States certify that places of public accommodation meet the requirements of Public Law 101–391. Under the amendment, the States will still be required to formulate and submit the list of approved places of public accommodation to the Director of the Federal Emergency Management Agency [FEMA].

The second amendment incorporates portions of H.R. 3808, the Fallen Firefighters Foundation Act introduced by the Gentlewoman from Maryland [Mrs. BYRON]. The purpose of the foundation is to provide support for the memorial services at the National Fallen Firefighters' Memorial located in Emmitsburg, MD. This amendment was also developed in consultation with the majority and minority members of the Science, Space, and Technology Committee.

The third amendment incorporates H.R. 3360, the Federal Fire Safety Act of 1992 which was passed by the House on August 10, 1992. This bipartisan measure, which is the number one legislative priority of the Nation's fire service organizations will establish for the first time, minimum fire safety standards for Federal office space, housing for federal employees, and federally subsidized housing. In appropriate circumstances it will require the use of sprinklers and smoke detectors in Federal buildings, enabling the Federal Government to lead by example in the area of fire safety.

The final amendment requires 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 transported from their workplaces. I would like to express my deep appreciation to the gentleman from New York [Mr. BOEHLERT] who worked closely with me in developing the content of this legislation and who has worked tirelessly to obtain its passage.

Mrs. BYRON. Mr. Speaker, I rise today in strong support of H.R. 2042 which reauthorizes the programs of the U.S. Fire Administration and the National Fire Academy. I am especially pleased that this legislation includes the language of H.R. 3808, legislation I introduced in the House, to establish a National Fallen Firefighters Foundation Act.

The foundation established by this bill will enable us to honor the career and volunteer firefighters who have sacrificed their lives for the protection of their communities and Nation. It would serve as a charitable, nonprofit corporation, existing solely on donations made by individuals and organizations wishing to honor career and volunteer firefighters who have died in the line of duty and to assist their families. The primary purpose of the foundation is to maintain and preserve the National Fallen Firefighters Memorial, in Emmitsburg, MD, and finance the memorial's annual ceremony. If successful, the foundation could provide support to local efforts made throughout the country to commemorate these courageous men and women, and aid the firefighters' families wishing to attend the memorial service in honor of their loved ones.

At present, all costs incurred by the memorial, its annual ceremony, and the other efforts of recognition for the fallen firefighter, have been funded through FEMA. This foundation, in removing the burden from the taxpayer, will "encourage, accept, and administer" charitable contributions made in memory of those fallen heroes.

I am delighted that this foundation has been strongly endorsed by the fire community, including the Maryland State Firemen's Association, the National Fire Protection Association, and the International Association of Fire Fighters. The memorial is growing at a rapid rate, and so too is the need for its increased support. We must help commemorate these fallen heroes and assist those they have left behind. I ask my colleagues to join me in support of this legislation.

Mr. VALENTINE. Mr. Speaker, I rise today in support of H.R. 2042, comprehensive Federal fire legislation. This legislation will help the approximately 60,000 firefighters in North Carolina.

As a co-chair of the congressional fire caucus, I commend Representative BOUCHER and Representative BOEHLERT on their hard work to bring this legislation to the full House.

I am especially pleased to see that the Fallen Firefighters Foundation will be authorized by this act. People often do not realize how dangerous fire fighting can be, and I believe this foundation will call appropriate attention to those who have fallen in the line of duty.

Another important provision is the Federal Fire Safety Act. This legislation is the No. 1 legislative priority of the Nation's fire services organizations. Inclusion of this legislation will, for the first time, establish minimum fire safety standards for Federal buildings.

I have supported firefighters since I first came to Congress in 1983. During the 101st congressional, I chaired the subcommittee with jurisdiction over the National Fire Academy and worked for passage of National Fire Prevention Week.

I am delighted that this comprehensive legislation will be passed before the end of the 102d Congress. I look forward to continuing to battle for our Nation's firefighters, full-time and volunteer, in the future.

Mr. PACKARD. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

## URGING MEMBERS TO SUPPORT H.R. 2042, FEDERAL FIRE SAFETY ACT

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

Mr. BOEHLERT. Mr. Speaker, I want to commend this important legislation to my colleagues. I would like to point out something that is extremely important. It is often overlooked in this highly technology-intensive Nation of ours, the most affluent Nation on the face of this Earth.

We have the highest death rate and property loss rate due to fires. That is a sad commentary. That is something that we have to correct, and we are determined to do so. I would commend the chairman of the subcommittee, my colleagues, the gentleman from Virginia [Mr. BOUCHER] and the ranking member, my colleague, the gentleman from California, for their hard work on this legislation. This is something that I have been involved with right from the beginning, and it has been a pleasure for me to be a partner in a most worthy effort.

## IN RECOGNITION OF EFFORTS OF MEMBERS ON H.R. 2042

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

Mr. WELDON. Mr. Speaker, I stand to praise the work of this subcommittee and the leadership of the gentleman from Virginia [Mr. BOUCHER] and the efforts of the gentleman from California [Mr. PACKARD]. They have done an outstanding job on this very important piece of legislation, with the cooperation of the gentleman from California [Mr. BROWN] and the gentleman from Pennsylvania [Mr. WALKER], who has done yeoman's work on behalf of the Nation's fire service.

This is perhaps the single most important piece of legislation to the Nation's 1.5 million firefighters that we will consider this year. It reauthorizes the Fire Administration, a totally revamped Fire Administration, which now includes the National Fire Academy.

It also includes a new initiative offered by the gentleman from Virginia [Mr. BOUCHER] and the gentleman from New York [Mr. BOEHLERT], the Federal Fire Safety Act. It includes updates to H.R. 94, which became law last session, the first breaker bill in the history of this country.

It includes the Fallen Fire Fighters Foundation, and it also includes the Workers' Family Protection Act. These are significant pieces of legislation. I thank all of my colleagues for working on this, and on behalf of the 1.5 million domestic defenders in this country, we thank the gentleman for their leadership.

Mr. Speaker, as a former volunteer fire chief and the chairman of the congressional fire services caucus, I am very pleased to express my support for H.R. 2042. The primary purpose of this important legislation is to reauthorize the programs of the U.S. Fire Administration and the National Fire Academy. However, H.R. 2042 also includes several other provisions strongly backed by the American Fire Service.

Although the United States still struggles diligently to control our Nation's fire problem, the situation has dramatically improved over the last two decades. Yet even today, the statistics still indicate that the United States is at, or near, the bottom of most fire performance indicators for industrialized countries. In order to further enhance our Nation's fire prevention and control programs, we must provide U.S. Fire Administration and the National Fire Academy with additional resources.

Since their inception in 1974, the U.S. Fire Administration and the National Fire Academy have played key roles in preventing loss of life and property from fire. This bill would reauthorize the U.S. Fire Administration's funding for fiscal years 1992 through 1994, enabling them to strengthen their vital programs. In addition to directing the Fire Administration to give high priority to some salient issues like reducing the incidence of residential fires, H.R. 2042 requires the administration to report to Congress regarding its progress on implementing the Hotel and Motel Fire Safety Act of 1990 (Public Law 101–391).

The Federal Government should set an example in the area of fire safety and, by its own actions, encourage the private sector to use technology proven to save lives. Congress took a step in that direction when we approved the hotel-motel bill. Fortunately, H.R. 2042 presents us with another excellent opportunity to encourage fire safety by enacting the Federal Fire Safety Act.

The Federal Safety Act would establish minimum fire protection standards governing the installation of automatic sprinklers and smoke detectors in newly constructed or renovated Federal office space and federally assisted housing. When used in combination, automatic sprinklers and smoke detectors are a cost effective means of preventing fire devastation. I am particularly pleased that this important successor to the hotel-motel bill has been included as a provision of H.R. 2042.

This legislation also contains a provision to establish a fallen firefighters foundation. Each year, the families of fallen firefighters attend a memorial service at the National firefighter memorial in Emmitsburg, MD. Those who have lost fathers, mothers, brothers, and other immediate relatives in the line of duty are invited to attend. This charitable, nonprofit foundation would provide badly needed financial assistance and moral support to the families of the deceased and would be a fitting tribute to our brave domestic defenders.

Finally, this legislation also includes the Workers' Family Protection Act. This important provision addresses the issue of inadvertent exposure to Toxic materials outside of the workplace. In short, it requires a 4-year study on home contamination, with special consideration for the families of firefighters.

Mr. Speaker, H.R. 2042 is a good, solid piece of legislation. I am proud to be associated with its provisions and urge my colleagues to support its passage.

## AUTHORIZING CORRECTION IN THE ENROLLMENT OF H.R. 2042, FEDERAL FIRE PREVENTION AND CONTROL ACT OF 1974 REAUTHORIZATIONS

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 138) to authorize a correction in the enrollment of H.R. 2042, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

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

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 138

*Resolved by the Senate (the House of Representatives concurring),* That in the enrollment of the text of the bill (H.R. 2042) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes, the Clerk of the House of Representatives shall make the following corrections: With respect to section 209—

(1) strike out subparagraph (A) of subsection (d)(1) and insert in lieu thereof the following new subparagraph:

"(A) determine if additional education about, emphasis on, or enforcement of existing regulations or standards is needed and well be sufficient, or if additional regulations or standards are needed with regard to employee transported releases of hazardous materials; and"; and

strike out paragraph (2) of subsection (d) and insert in lieu thereof the following new paragraph:

(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, pursuant to the Secretary's authority under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), such regulations or standards as determined to be appropriate not later than 3 years after such determination.".

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate concurrent resolution be considered as read and printed in the RECORD.

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

There was no objection.

Mr. BOUCHER. Mr. Speaker, Senate Concurrent Resolution 138 directs the Enrolling Clerk of the House to make corrections in the enrollment of H.R. 2042, the authorization for the Federal Fire Prevention and Control Act.

The resolution was initiated in the other body by Mr. JEFFORDS in response to interpretative concerns regarding the Jeffords amendment to H.R. 2042 raised by the gentleman from Pennsylvania [Mr. WALKER].

I would urge adoption of the resolution so that the interpretative concerns will be resolved.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

## INTRODUCTION OF FOOD STAMP EMPLOYMENT AND FLEXIBILITY AMENDMENTS OF 1992

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

Mr. EMERSON. Mr. Speaker, I am introducing a bill today that will improve the Food Stamp Program and enhance waiver authority for welfare reform demonstration projects.

The President sent to Congress four proposals to promote work, provide flexibility and encourage innovation in Federal public assistance programs. One of these proposals includes changes in the Food Stamp Program that will remove limitations on work requirements and enhance waiver authority for welfare reform demonstration projects.

I believe there are major problems facing the entire public welfare system which require budgetary, regulatory, tax and welfare reform. I would like to see a system in which we provide benefits to people in a coordinated and simplified manner and provide employment and training for able-bodied participants. We must simplify the programs we have and make taxpayers out of those able-bodied people now in need of help. The food stamp proposal is a step in that direction.

These four proposals, including the food stamp proposal which I will sponsor, will be introduced today. I urge my colleagues to review these proposals. The welfare system is broken and must be fixed. When a family is in need of help, that need often crosses program lines and the hurdles that families must face are immense. They must go to different agencies, meet different eligibility standards, and abide by different rules and regulations. Administrators of these programs have similar problems. One of our first priorities should be to make sure that we improve the delivery of Federal welfare benefits to needy families across the United States.

SECTION-BY-SECTION SUMMARY OF THE FOOD STAMP EMPLOYMENT AND FLEXIBILITY AMENDMENTS OF 1992

REMOVE LIMITATIONS ON DURATION OF JOB SEARCH

Section 2 would amend Sections 6(d) and 20(e) of the Food Stamp Act to assign state agencies the responsibility for establishing the duration of job search periods for participants in the Food Stamp Program's employment and training (E&T) and workfore programs. Currently, the Food Stamp Program regulations limit job search to eight weeks at application and an additional eight weeks during each succeeding twelve month period. The proposal would remove this limitation, thus permitting state agencies to require longer or continual job search. State agencies are in a much better position to judge whether continuing job search is likely to help food stamp participants find work and expedite the time when they will no longer require Federal food assistance. It is reasonable to require able-bodied unemployed or underemployed people who are receiving Federal assistance to spend time searching for work, just as it is reasonable to require able-bodied employed people to continue working. The proposal would make any job search periods required by state agencies for E&T participants subject to any minimum period established by the Secretary by regulation.

REVISE PROHIBITION AGAINST DISPLACING EMPLOYEES

Section 3 would amend Sections 6(d) and 20(d) of the Food Stamp Act to expand state agencies' ability to place E&T or workfare participants. Currently, state agencies are prohibited by the statute from placing E&T or workfare participants in any job if doing so would have the result of displacing an employee who is not participating in E&T or workfare. The proposal would prohibit firing or laying off existing employees with the intent of replacing them with E&T or workfare participants, but it would enable state agencies to fill jobs vacated for other reasons with E&T or workfare participants as long as contracts for services/collective bargaining agreements were honored. Since state agencies have the responsibility for placing both E&T and workfare participants, those agencies are in the best position to know whether jobs are appropriate for such participants. State agencies should have as few constraints as possible in their efforts to place E&T and workfare participants in jobs.

AUTHORITY FOR STATE AGENCIES TO INCREASE HOURS OF PARTICIPATION IN COMMUNITY WORK EXPERIENCE PROGRAMS AND WORKFARE

Section 4 would amend Section 20(b) and (c) of the Food Stamp Act to make a technical amendment and to provide state agencies administering community work experience programs (CWEP) and food stamp workfare programs additional options.

The technical amendment would change an incorrect reference to a renumbered section of the Social Security Act. The incorrect reference currently prevents state agencies administering CWEP from considering the value of food stamps received by CWEP participants when calculating the maximum hours such participants can be required to work.

The proposal would give state agencies that administer CWEP the option to include the average monthly cost of providing Medicaid benefits and the value of Federal housing assistance when computing the maximum hours of CWEP participation. The maximum number of hours that CWEP participants receiving food stamps could be required to work would be capped at 40 hours a week. Currently, food stamp recipients who participate in CWEP are limited to 120 hours monthly. The proposal would provide state agencies that administer CWEP maximum flexibility in assigning participants to jobs.

The proposal would also provide food stamp state agencies administering workfare the option to consider the average monthly cost of providing Medicaid benefits (for food stamp households that receive Medicaid) and the value of Federal housing assistance, in addition to the value of households' food stamp allotments, in calculating the maximum hours workfare participants can be required to work. The maximum number of hours that workfare participants could be required to work would be capped at 40 hours a week. Currently, food stamp recipients participating in workfare are limited to 30 hours per week. The proposals would enhance state agencies' flexibility in administering this food stamp work program.

ENHANCED FOOD STAMP PROGRAM WAIVER AUTHORITY FOR WELFARE REFORM DEMONSTRATION PROJECTS

Section 5 would amend Section 17(b) of the Food Stamp Act to improve the Secretary of Agriculture's existing authority to approve waivers requested by states operating or wishing to operate welfare reform demonstration projects. The Secretary would be authorized to approve waivers of any aspect of the program, including eligibility requirements, benefit computations, and administrative procedures.

Currently, Section 17(b) of the Food Stamp Act authorizes waivers necessary to conduct demonstration projects but denies the Department authority to approve waivers that would lower or further restrict eligibility standards (income and resources) or benefits unless the project involves the payment of the average value of allotments in cash or improved coordination of E&T and AFDC's Job Opportunities and Basic Skills program. Improved waiver authority for welfare reform demonstration projects is necessary to permit tests of program changes that cannot be achieved under current authority. Such tests could lead to achieving one of the most important goals of this Administration: permitting closer conformity between the Food Stamp Program and the Aid to Families with Dependent Children program and other Federal assistance programs, thus leading to meaningful welfare reform and maximizing state agencies' flexibility.

EFFECTIVE DATE

Section 105 specifies that the amendments made by this bill will become effective on October 1, 1992.

## WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 5006, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 588 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 588

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 5006) to authorize appropriations for fiscal year 1993 for military functions of the Department of Defense, to prescribe military personnel levels for fiscal year 1993, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

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

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During debate on this resolution, all time yielded is yielded for the purposes of debate only.

Mr. Speaker, House Resolution 588 provides for the expeditious consideration of the conference report to accompany the fiscal year 1993 Department of Defense authorization. The rule provides for the consideration of the conference report and waives all points of order against the conference report and its consideration. The rule also provides that the conference report shall be considered as read.

Mr. Speaker, as Members know, the Committee on Armed Services has spent the better part of this year developing a bill which will serve as the basis for restructuring our Armed Forces to meet the Nation's defense requirements. The conference agreement reflects the realities of today's world and the Armed Services Committee is to be commended for its efforts in creating this legislation. Mr. Speaker, I urge adoption of this resolution in order that the House may proceed to the consideration of this most important conference agreement.

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Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I will not take much time to speak on this rule since this House has not just this legislation but a great deal of other business that it must address as well.

I will simply point out that H.R. 5006, the fiscal year 1993 Defense authorization, is an extremely important bill whose programs not only involve our national defense but our economy and its industrial base as well.

A great deal of time has passed since this House approved its version of this bill. Four months, in fact.

A procedural delay in the Senate, however, consumed several weeks in August and September.

Then, of course, a committee of conference was necessary to work through and resolve the differences in this extensive bill as passed by the two Houses.

The conference agreement is now ready for consideration by this House, however, and it is my understanding that it has the support of both Armed Services Committee Chairman, ASPIN and ranking minority member DICKINSON.

It appears at this time that it is a bill that the President can sign as well.

As we now move toward adjournment within the next few days, adoption of the rule before us will allow the House to go on to debate and conclude action on this bill.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Alabama [Mr. DICKINSON], one of the most distinguished Members ever to serve in the House, and the long-time ranking minority member of the Armed Services Committee, one who is deeply admired and respected on both sides of the aisle. I am proud to yield him whatever time he might consume. He is retiring this year.

Mr. DICKINSON. Mr. Speaker, let me first thank our distinguished ranking member for the very glowing and flattering remarks. I very much appreciate it.

This will be the last opportunity I will have to speak on a rule for the Armed Services Committee. I am glad to say that this last rule on the last conference is on a bill that I am very pleased to support. I think that the conference committee report is something that our committee can be proud of, and that all of the Members of the House can support.

Mr. Speaker, this bill authorizes $274.5 billion for the defense of our country. We worked hard, and we were conscientious, and we are continuing on a downhill slope as far as funding for defense. We have funded this at some $7 billion under the administration's request, and it is $2.5 billion under what our own Budget Committee authorized.

We worked hard, very long hours, and after a very trying conference with the Senate we have brought back a conference report having resolved over 2,000 language differences with the Senate. We have accommodated 92 outside conferees representing 14 committees on almost 350 provisions.

As with any bill, the conference report on H.R. 5006, the fiscal year 1993 DOD authorization bill, had plenty not to like in it. I do not think anybody was unanimously happy with it. But I believe I am correct in saying that more of the conferees have signed, agreed to, and signed the conference report than any conference report in recent memory. There were only three of the House conferees who refused to sign the report, and that is something of a record.

There were many things that Members sought and thought should be included that were not, and there were many things that were included that some of us felt should not be included. However, in light of the ongoing international change and the domestic turmoil of our Presidential election, I think we come out with a reasonably good bill. I am not aware of any Department of Defense or administration opposition to our conference report. And as I said, only three conferees failed to sign the conference report.

Accordingly, Mr. Speaker, I urge support for this. We have a sort of truncated rule. The objectionable part that was in the bill dealing with abortion in military hospitals overseas was removed from this bill. It is subject to a separate rule. It will come up following this. But in order not to jeopardize the parent bill, the total bill, it is not in here.

I think there is nothing controversial in here, and I urge all of the Members to support it. I think all of the Members on this side will support it. I do urge support.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for his great leadership all of these years.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN], a member of the Armed Services Committee.

Mr. DORNAN of California. Mr. Speaker, it is not fair when somebody becomes a legend in only a few years, and the gentleman from New York [Mr. SOLOMON] has already become a legend on the Rules Committee.

I would like to thank my good friend and former marine, JERRY SOLOMON, for providing me time today to speak on the fiscal year 1993 defense authorization report. I would also like to thank all of my fellow conferees for their hard work on this report, especially our committee's ranking minority member, BILL DICKINSON, who has always provided this House with outstanding leadership on defense issues and is retiring at the end of this session. For the first time in some years, I have found enough positive measures in this conference report to support the majority of the provisions agreed to in the conference.

We do not know what the world, economic or political environment of next year may look like, but this report, containing the majority of provisions proposed by President George Bush in his fiscal year 1993 Defense budget, is a large and vital step toward ensuring our future national security.

I was especially pleased with the outcome of three important issues I personally became involved with during our conference negotiations.

First, I was very satisfied with the conferees' agreement on the need to maintain our power projection capability through the modernization of our strategic bomber force.

Over 85 percent of the funding requested by the administration to provide the B–1B Lancer with conventional enhancements was included in the report. These enhancements will ensure that the Air Force has a reliable, penetrating supersonic bomber with all-weather precision bombing capability. Additionally, the conferees approved 20 B–2 Shadow Stealth bombers, the minimum number necessary to provide a credible long range stealth force.

Next, the conferees agreed to fund 36 F/A–18 C/D Hornet strike fighters and

proceed forward without delay with the vastly improved F/A–18 E/F Hornet variant. These 36 C/D's will immediately help address our continuing requirement to modernize our naval carrier strike force.

Anything less than 36 aircraft would have resulted in increased costs for both the Navy and the taxpayer in future C/D procurement. Meanwhile, by demonstrating our commitment to the F/A–18 E/F, an aircraft with more range, more payload, and more capability than the already combat proved C/D, we are guaranteeing our future naval aviators a modern, reliable, and survivable strike aircraft for future Desert Storms.

Finally, despite previous opposition in the House, the conferees agreed to fully fund research and development on a modest but essential ground-based antisatellite [Asat] system. Believe it or not, we do not possess any current capability to deny the enemy use of satellites in battle, despite the fact that up to 10 potentially hostile countries possess such a capability. If Saddam Hussein controlled satellites during Desert Storm, we may not have been able to successfully continue our bombing campaign or execute the Hail Mary ground maneuver which resulted in allied victory.

Besides these important conference issues, I was also very happy to see a modified version of my bill, H.R. 4513, the New Careers in Education Act, included in the conference. This legislation, which was part of the House bill, will provide our brave service men and women, as well as displaced Department of Defense and defense contractor employees, with incentives to pursue new careers as elementary and secondary school teachers.

With so much talent in our military, especially in science and math, the real winners of this legislation will be our children, who will have a new influx of knowledge and leadership in the classroom. We owe it to our brave service men and women, who have volunteered to sacrifice their lives in defense of our country, some small assistance in their transition to new civilian careers.

This report is by no means perfect, especially with regards to low SDI funding and unnecessary ABM Treaty requirements, but overall it represents a George Bush defense budget and a George Bush vision for the future security of this Nation. Let's just hope we can build upon this vision during the next 4 years and not have to rebuild our military strength at the end of this century.

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Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR CONSIDERATION OF S. 3144, MEDICAL HEALTH CARE INITIATIVES ACT OF 1992

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 589 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 589

*Resolved*, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider in the House the bill (S. 3144) to amend title 10, United States Code, to improve the health care system provided for members and former members of the Armed Forces and their dependents, and for other purposes. Debate on the bill shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. The previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 589 is the rule providing for the consideration of S. 3144, the Medical Health Care Initiatives Act of 1992.

It provides for consideration of S. 3144 in the House, any rule of the House to the contrary notwithstanding.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services.

Finally, the rule provides for one motion to recommit.

Mr. Speaker, S. 3144, the bill for which the Rules Committee has recommended this rule, is a measure that the House has passed each of the last 2 years as an amendment to the Department of Defense authorization bill. Unfortunately, both last year and this year the conferees on the DOD authorization bill have stripped the provision from the bill in the face of a Presidential veto threat.

The House has an opportunity to again affirm its commitment to safe, high-quality reproductive health services for women serving in our Armed Services as well as the dependents of all those serving in the military abroad.

These services were available, paid for by the recipient, for years. But beginning in 1988, the Defense Department prohibited military health care facilities from performing abortions, even when the woman's life is in jeopardy and even though she would pay for the procedure herself. For the many women stationed in countries that do no have adequate health care or legal abortion, this policy dooms them to unsafe or illegal procedures.

Our military provides health care to the men and women in the armed forces and their dependents because the health services in some foreign counties are not adequate. Yet, for this one issue, abortion, which is legal in the United States, we refuse to ensure that military families receive safe treatment.

Passage of S. 3144 will overturn this dangerous policy that was never approved by Congress. It will allow a woman to receive an abortion at an overseas military health facility if she pays all the costs, direct and indirect, associated with the procedure.

Mr. Speaker, I ask my colleagues to support the rule so that the House may proceed with consideration of this important legislation.

Mr. Speaker, if the Members of the House who saw 60 Minutes last night and saw the fate of women in the military who are raped and the inattention that was given to their charges and to all the people in the House and in the country who have watched the Tailhook problem unfold, I hope that this time we can have an opportunity to correct what is an absolute injustice for the women in the military and for military spouses.

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

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

Mr. Speaker, I oppose this rule not just because it is a restrictive rule but because we should not even by considering it at this time.

The President will veto this bill. It will be a pocket veto. We have gone through this battle over and over again. We even had it today.

It seems to me that we should be dealing with the pressing matters of appropriations bills, conference reports, and those sorts of things which are coming forward.

So I urge opposition to this rule.

Mr. Speaker, at this point in the RECORD I am inserting the statement of administration policy.

Mr. Speaker, I oppose this rule, not because it is a restrictive rule, but because it should not even be considered. The President will pocket veto S. 3144. He always vetoes these bills and Congress always sustains that veto.

Under these circumstances, Mr. Speaker, I find it strange that we are wasting time on this issue when there are only 3 days left before we adjourn, and there are dozens upon doz-

ens of conference reports, appropriations bills, and suspensions waiting to be heard.

It seems to me Mr. Speaker, that we should not be considering controversial measures that have already been considered this year and have no chance of passage. The provision to allow certain medical procedures on military bases was in the Defense authorization bill and the conferees took it out because it is a party spoiler.

For this reason, I oppose this rule, and I reserve the balance of my time.

STATEMENT OF ADMINISTRATION POLICY

If S. 3144 were presented to the President in its current form, the President's senior advisers would recommend a veto.

S. 3144 would substantially change Federal policy with respect to abortion. The bill would allow abortions on demand to be performed at overseas U.S. military facilities in cases other than when the life of the mother is endangered. Since 1981, the Federal Government has determined that taxpayer funds should be used for abortion in only the most narrow of circumstances: when the life of the mother is endangered.

The President has repeatedly voiced his strong view that such a policy should continue and that any attempt to weaken current abortion policy would warrant a veto.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MINK. Mr. Speaker, I rise in support of the veto override. As of yesterday, millions of women across this Nation will not receive comprehensive and accurate medical information in clinics which receive title X funding.

I received a notice from the Hawaii Department of Health that explains how my State proposes to cope with the gag rule, while attempting to continue to provide complete and appropriate medical information and services to the women who attend publicly funded clinics.

The statement by the Hawaii Department of Health clearly portrays the struggle States will have in trying to provide complete health information and services to women while being gagged by the Federal Government. The statement is as follows:

Publicly subsidized family planning clinics throughout the State have arranged services supported with State funds to assure continued pregnancy testing, counseling, and referral services. We emphasize that State money will be used—no Federal title X funds. The implementation of the title X gag rule began as of October 1, 1992. Title X funds will continue to be used to subsidize preventive family planning services in Hawaii.

Nevertheless, women in Hawaii who visit any Department of Hawaii subsidized clinics will experience no disruption in regular services. Many added hours of staff time, however, will have to be put into documentation of the changes and activities necessary to assure compliance.

State law in Hawaii protects women's right to privacy, information, and referral for their choice of all medical services for reproductive health, including pregnancy, and family planning. The gag rule prohibits the use of Federal title X funds for information or referral for abortion. Fortunately for Hawaii residents, the State legislature provides sufficient funding to the statewide family planning system so that clinics are not confined to the title X funded project and its rules.

The legality of the gag rule continues to be challenged. A U.S. district court of appeals will decide on an appeal for injunction against the rule by the National Family Planning and Reproductive Health Association and the National Association of Nurse Practitioners in Reproductive Health.

The State and federally funded program in Hawaii services about 18,000 low-income women each year with primary prevention service including family planning medical exams, screening for breast and cervical cancer, sexually transmitted diseases, pregnancy testing and referral, and information and referral for a variety of health problems which might otherwise go undetected. Title X makes up less than 37 percent of the funding of the overall publicly subsidized family planning program.

The Department of Health Office of Family Planning, which administers the program, contracts the majority of services to voluntary agencies throughout the State—ambulatory clinics, primary care centers, hospitals, women's health clinics, Planned Parenthood, and some private physician offices and group clinics. Only five, however—The Bay Clinic, Kalihi-Palama Health Clinic, Kokua Kalihi Valley, Rural Oahu Family Planning Project, and the University of Hawaii Women's Health Clinic—are partially supported with title X funds. These clinics will continue to offer family planning services and referral through State-funded clinic projects.

Although President Bush indicated physicians would be allowed to provide counseling and referral for abortion services, this offers no real relief. Most title X projects have voluntary or part-time physicians and medical directors, but qualified nurse practitioners—often trained by title X funds—provide the client services and these professionals are not included in the Presidential exemption. This problem is one of several reasons for the court actions pending.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). 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 rollcall votes, if postponed, will be taken on Saturday, October 3, 1992.

## AUTHORIZING SPECIAL FACILITIES CENTER OF THE LIBRARY OF CONGRESS

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5575) to authorize certain uses of real property acquired by the Architect of the Capitol for use by the Librarian of Congress and for other purposes, as amended.

The Clerk read as follows:

H.R. 5575

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

**SECTION 1. LIBRARY OF CONGRESS SPECIAL FACILITIES CENTER.**

Section 205(a) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 141 note) is amended by adding at the end the following new sentence: "The property acquired under this section shall be known as the 'Library of Congress Special Facilities Center' (hereinafter in this section referred to as the 'Center').".

**SEC. 2. ADDITIONAL USES OF THE CENTER.**

Section 205(g) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 141 note) is amended—

(1) in paragraph (2), by striking out "and" after the semicolon;

(2) by redesignating paragraph (3) as paragraph (6); and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) for external training;

"(4) for general assembly and education programs of the Library;

"(5) for temporary living quarters and common areas for visiting scholars using the collections of the Library or participating in the programs of the Library; and".

**SEC. 3. FEES FOR USE OF THE CENTER.**

Section 205 of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 141 note) is amended by adding at the end the following new subsection:

"(h)(1) The Librarian of Congress—

"(A) may charge fees for use of the Center under paragraphs (3), (4), and (5) of subsection (g); and

"(B) shall deposit the fees in the fund under paragraph (2).

"(2) There is established in the Treasury a fund which shall consist of amounts deposited under paragraph (1) and such other amounts as may be appropriated to the fund. The fund shall be—

"(A) available to the Librarian of Congress, in amounts specified in appropriations Acts, for the expenses of the Center; and

"(B) subject to audit by the Comptroller General at the discretion of the Comptroller General.".

**SEC. 4. TEMPORARY RESTRICTION ON EVENING USE OF THE CENTER.**

No evening meetings may be held at the Library of Congress Special Facilities Center until an on-site parking plan for the property is approved by the Joint Committee on the Library.

**SEC. 5. REPEAL OF DUPLICATE PROVISIONS OF LAW.**

Effective November 15, 1990, sections 1, 2, and 4 of the Act entitled "An Act to authorize acquisition of certain real property for the Library of Congress, and for other purposes", approved November 15, 1990 (2 U.S.C. 141 note) are repealed.

□ 1930

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule,

the gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes, and the gentleman from Georgia [Mr. GINGRICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

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

Mr. Speaker, H.R. 5575 seeks authorization by the Library of Congress to expand uses of the building at 601 East Capitol Street (formerly St. Cecelia's Academy). Specifically, the Library of Congress requests authorization to provide external training programs; temporary lodging quarters for visiting scholars and selected participants in Library programs; and for general assembly and meeting purposes.

I urge my colleagues to support H.R. 5575 legislation for three important reasons. First, and foremost, for the child care center which was the major impetus for the purchase of the facility. If the day care center is to open for operation as scheduled in April 1993, all major construction must be completed by February. Continuation of construction hinges on completing an essential fire sprinkler system, but installation of the system first requires that plans be finalized for the upper floors. However, major construction plans cannot be finalized until the additional uses for the upper floors are authorized by this legislation.

Second, the educator's institute is another important Library outreach program consistent with our national priority for enhancing American competitiveness. This program brings groups of 30 elementary and secondary school teachers and librarians from all over the United States to the Library to learn from distinguished lecturers and to participate in guided use of the Library's collections. Were facilities available, these programs could be doubled, or tripled, to assist those people who deal most directly with the young.

And finally, this legislation is to make the Library accessible to those who might otherwise be unable to benefit from the richness of its collections. Many foreign interns must decline offers to participate in Library programs, and those who do accept often suffer hardship because of a lack of housing support. This facility will provide a special service to those whose financial resources and programmatic needs justify it. At the same time, because the facility has a limited capacity of approximately 17, the facility will not significantly divert patronage from the other available accommodations on Capitol Hill.

This legislation does not include a request for any additional funds. It seeks rather to establish a special deposit account in the U.S. Treasury into which moneys generated from the residential uses of the facility will be deposited.

I am mindful that increased usage of the East Capitol facility will generate traffic which could impact on the community. It is anticipated that any use of the facility during evening hours would occur only on rare occasions.

Consequently, this legislation provides that the community concerns regarding the impact of increased traffic due to evening use of the facility are considered. In response to those concerns, this amendment requires that any parking plan for the special facility center shall be developed in consultation with the Delegate from the District of Columbia, Ms. NORTON, in order to address the concerns of residents living in the neighborhood where the special facility center is located.

I urge my colleagues to support and adopt H.R. 5575, as amended.

Mr. Speaker, I include herewith the correspondence between the gentleman from North Carolina [Mr. ROSE], chairman of the Committee on House Administration, and the gentleman from New Jersey [Mr. ROE], chairman of the Committee on Public Works and Transportation, acknowledging jurisdiction of the Committee on Public Works over various provisions of Public Law 101-562 and identical provisions of Public Law 101-520, as follows:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
*Washington, DC, October 1, 1992.*

Hon. CHARLIE ROSE,
*Chairman, Committee on House Administration, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: I have received your correspondence regarding H.R. 5575 as it pertains to the jurisdiction of the Committee on Public Works and Transportation.

We have reviewed the technical amendment in the nature of a substitute to the bill and, in exchange for your acknowledgment of our jurisdiction, our Committee waives its right to a sequential referral of this legislation. It should be noted, however, that this should not be construed as a waiver, now or in the future, of this Committee's jurisdiction over the issue in question, or our inclusion in any conference thereon. In addition, we have no objections to House consideration of the matter under suspension of the rules. I ask, however, that our exchange of letters be made a part of the debate concerning this measure.

With all good wishes.

Sincerely,

ROBERT ROE, *Chairman.*

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COMMITTEE ON HOUSE ADMINISTRATION,
*Washington, DC, October 1, 1992.*

Hon. ROBERT A. ROE,
*Chairman, Committee on Public Works and Transportation, Washington, DC.*

DEAR MR. CHAIRMAN: On September 23, 1992, the Committee on House Administration ordered reported H.R. 5575, authorizing certain expanded uses of real property acquired by the Architect of the Capitol for use by the Librarian of Congress.

Although H.R. 5575 modifies or repeals provisions of legislation originating in the Committee on Public Works and Transportation, consideration of this bill will not diminish the jurisdiction of that Committee over measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Library of Congress.

This Committee believes that future legislation proposing to amend various provisions of P.L. 101-562 (and identical provisions contained in P.L. 101-520) would be subject to referral to the Public Works and Transportation Committee under House Rule X.

After reviewing the text of the technical amendment in the nature of a substitute to the bill, this Committee would appreciate your consideration of allowing the matter to be taken up under suspension of the rules as soon as the schedule permits.

With my very best wishes,

Sincerely,

CHARLIE ROSE, *Chairman.*

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

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

Mr. Speaker, I just want to say that the recent purchase of St. Cecelia's on Capitol Hill for use by the Library of Congress has resulted in acquisition of much-needed space for employee training and for a day care center for the children of Library employees. H.R. 5575 extends the uses of St. Cecelia's to include external and congressionally related training and temporary living quarters for visiting students and scholars.

Currently, the Library is critically short of adequate training space. Among the Library's many training programs are the 200 programs conducted each year by the Congressional Research Service for 10,000 congressional staff members. By authorizing the Library to use St. Cecelia's for external and congressionally related training, this legislation makes valuable training space available. Further, the plans for the facility include use of sophisticated technology, including interactive video and CD ROM technology.

H.R. 5575 authorizes the use of St. Cecelia's for temporary living quarters for visiting scholars participating in Library programs.

Seventeen dorm like rooms would be available on a fee recovery basis. A special account would be created in Treasury into which moneys received for dorm residence and use of the space by outside groups will be deposited. This legislation does not require any new funds for St. Cecelia's but does allow the Library of Congress to use the facility to its full potential at a time when the Library is critically short of adequate space.

Let me say as a former teacher of West Georgia College, I know the importance of the Library of Congress for scholars all across this country and in fact around the world. I know what an extraordinary research facility the Library is. And I think that from all over the world there will be people who will find a real use and a real asset in having access to the Library, having access to the kind of facility for visiting scholars that is suggested here.

Since it will be self-supporting in terms of fees, it seems to me it is a win-win relationship for both the taxpayer and the world of knowledge.

So I strongly urge my colleagues to support this bill.

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

Mr. CLAY. 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 Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 5575, 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 authorize certain additional uses of the Library of Congress Special Facilities Center, and for other purposes."

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. CLAY. 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 just passed.

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

There was no objection.

## EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS ACT OF 1991

Mr. DERRICK, Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2164) to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority as amended.

The Clerk read as follows:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Expedited Consideration of Proposed Rescissions Act of 1992".

**SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS.**

(a) IN GENERAL.—Part B of title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by redesignating sections 1013 through 1017 as sections 1014 through 1018, respectively, and inserting after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY.—In addition to the method of rescinding budget authority specified in section 1012, the President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriations Act. Funds made available for obligation under this procedure may not be proposed for rescission again under this section or section 1012.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) Not later than 3 days after the date of enactment of an appropriation Act, the President may transmit to Congress a special message proposing to rescind amounts of budget authority provided in that Act and include with that special message a draft bill or joint resolution that, if enacted, would only rescind that budget authority.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill or joint resolution for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a).

"(c) LIMITATION ON AMOUNTS SUBJECT TO RESCISSION.—

"(1) The amount of budget authority which the President may propose to rescind in a special message under this section for a particular program, project, or activity for a fiscal year may not exceed 25 percent of the amount appropriated for that program, project, or activity in that Act.

"(2) The limitation contained in paragraph (1) shall only apply to a program, project, or activity that is authorized by law.

"(d) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of continuous session of the applicable House after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Congress in which the appropriation Act involved originated shall introduce (by request) the draft bill or joint resolution accompanying that special message. If the bill or joint resolution is not introduced as provided in the preceding sentence, then, on the third day of continuous session of that House after the date of receipt of that special message, any Member of that House may introduce the bill or joint resolution.

"(B) The bill or joint resolution shall be referred to the Committee on Appropriations of that House. The committee shall report the bill or joint resolution without substantive revision and with or without recommendation. The bill or joint resolution shall be reported not later than the seventh day of continuous session of that House after the date of receipt of that special message. If the Committee on Appropriations fails to report the bill or joint resolution within that period, that committee shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill or joint resolution shall be taken in that House on or before the close of the 10th calendar day of continuous session of that House after the date of the introduction of the bill or joint resolution in that House. If the bill or joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the bill or joint resolution to be engrossed, certified, and transmitted to the other House of Congress on the same calendar day on which the bill or joint resolution is agreed to.

"(2)(A) A bill or joint resolution transmitted to the House of Representatives or the Senate pursuant to paragraph (1)(C) shall be referred to the Committee on Appropriations of that House. The committee shall report the bill or joint resolution without substantive revision and with or without recommendation. The bill or joint resolution shall be reported not later than the seventh day of continuous session of that House after it receives the bill or joint resolution. A committee failing to report the bill or joint resolution within such period shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed upon the appropriate calendar.

"(B) A vote on final passage of a bill or joint resolution transmitted to that House shall be taken on or before the close of the 10th calendar day of continuous session of that House after the date on which the bill or joint resolution is transmitted. If the bill or joint resolution is agreed to in that House, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the engrossed bill or joint resolution to be returned to the House in which the bill or joint resolution originated.

"(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill or joint resolution under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill or joint resolution under this section or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill or joint resolution under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill or joint resolution under this section shall be governed by the Rules of the House of Representatives.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill or joint resolution under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill or joint resolution under this section, and all debatable motions and appeals in connection therewith, shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or joint

resolution, except that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill or joint resolution under this section is not debatable. A motion to recommit a bill or joint resolution under this section is not in order.

"(e) AMENDMENTS PROHIBITED.—No amendment to a bill or joint resolution considered under this section shall be in order in either the House of Representatives or the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(f) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House defeats the bill or joint resolution transmitted with that special message.

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

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations; and

"(2) continuity of a session of either House of Congress shall be considered as broken only by an adjournment of that House sine die, and the days on which that House is not in session because of an adjournment of more than 3 days to a date certain shall be excluded in the computation of any period.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of such Act (2 U.S.C. 621 note) is amended—

(1) by striking "and 1017" in subsection (a) and inserting "1013, and 1018"; and

(2) by striking "section 1017" in subsection (d) and inserting "sections 1013 and 1018"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of such Act (2 U.S.C. 682(5)) is amended—

(A) in paragraph (4), by striking "1013" and inserting "1014"; and

(B) in paragraph (5)—

(i) by striking "1016" and inserting "1017"; and

(ii) by striking "1017(b)(1)" and inserting "1018(b)(1)".

(2) Section 1015 of such Act (2 U.S.C. 685) (as redesignated by section 2(a)) is amended—

(A) by striking "1012 or 1013" each place it appears and inserting "1012, 1013, or 1014";

(B) in subsection (b)(1), by striking "1012" and inserting "1012 or 1013";

(C) in subsection (b)(2), by striking "1013" and inserting "1014"; and

(D) in subsection (e)(2)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by striking "1013" in subparagraph (C) (as so redesignated) and inserting "1014"; and

(iv) by inserting after subparagraph (A) the following new subparagraph:

"(B) he has transmitted a special message under section 1013 with respect to a proposed rescission; and".

(3) Section 1016 of such Act (2 U.S.C. 686) (as redesignated by section 2(a)) is amended by striking "1012 or 1013" each place it appears and inserting "1012, 1013, or 1014".

(d) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of such Act is amended—

(1) by redesignating the items relating to sections 1013 through 1017 as items relating to sections 1014 through 1018; and

(2) by inserting after the item relating to section 1012 the following new item:

"Sec. 1013. Expedited consideration of certain proposed rescissions.".

**SEC. 3. APPLICATION.**

Section 1013 of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 2) shall apply to amounts of budget authority provided by appropriation Acts (as defined in subsection (g) of such section) that are enacted during the One Hundred Third Congress.

**SEC. 4. TERMINATION.**

The authority provided by section 1013 of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 2) shall terminate effective on the date in 1994 on which Congress adjourns sine die.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from South Carolina [Mr. DERRICK] will be recognized for 20 minutes, and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

For what purpose does the gentleman from Minnesota [Mr. SABO] rise?

Mr. SABO. Mr. Speaker, I rise in opposition to the motion and request a portion of the time.

The SPEAKER pro tempore. Is the gentleman from New York [Mr. SOLOMON] opposed to the motion?

Mr. SOLOMON. Mr. Speaker, we are in support of the motion.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. SABO] qualifies and will receive the 20 minutes.

The gentleman from Minnesota [Mr. SABO] will be recognized for 20 minutes.

Mr. DERRICK. Mr. Speaker, I yield 10 minutes of my time to the gentleman from New York [Mr. SOLOMON] and ask unanimous consent that he be allowed to yield time.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from South Carolina will be recognized for 10 minutes, the gentleman from New York [Mr. SOLOMON] will be recognized for 10 minutes, and the gentleman from Minnesota [Mr. SABO] will be recognized for 20 minutes.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL].

Mr. ANDREWS of Texas. Mr. Speaker, I rise in strong support of H.R. 2164, the expedited rescission proposal sponsored by Congressman CARPER.

I came to Congress very much opposed to the line-item veto. I have always believed that it would shift far too much power and leverage to the President, unfairly tilting the system of checks and balances between the legislative and the executive branches.

It is no surprise that John F. Kennedy, Jimmy Carter, Ronald Reagan and George Bush, and Bill Clinton have all voiced support for the line-item veto. Can you imagine how a President like Lyndon Johnson could use this provision to his advantage?

President Bush's line-item veto proposal, for example, would effectively shift the congressional power of the purse to the executive branch, allowing for the deletion of any item in any spending proposal and requiring a two-thirds majority vote by the Congress to override the President's veto.

Yet the ability to eliminate wasteful and unjustifiable programs from a large spending bill is attractive. As Nikita Khrushchev once said: "Politicians are the same everywhere—they will build a bridge where there is no river."

Last year's Highway Administration bill is a case in point. This bill allocated 35 percent of the $6.5 billion in Federal highway funds available for demonstration projects to only five States, including funding for the following programs: $35 million for a monorail in Altoona; $1.6 million for a state of the art technology project to control rock slides in Lewistown; and $14.2 million to elevate 14 bridges over Molly Ann's Brook.

I am a cosponsor of the expedited rescission proposal because this bill maintains our governmental system of checks and balances while also increasing the accountability of both the executive and legislative branches for reducing the deficit.

The expedited rescission proposal restores accountability to Federal spending practices by allowing the President, with the approval of the Congress, to rescind funding for those programs that are slipped into appropriations bills—such as the renovation of Lawrence Welk's home—without the prior authorization of the Congress.

This bill adds to current law by providing a mechanism for the expedited consideration of those proposed Presidential rescissions that meet its specific criteria, without shifting the balance of power to the President by requiring only a simple majority vote by the Congress to approve or defeat the proposed rescissions.

And lastly, the bill is binding only for 2 years—if it fails to increase spending accountability or has unforeseen consequences, the expedited rescission can be improved or repealed altogether. As I see it, this is one tool to restore fiscal accountability that the Congress cannot afford to pass by.

Mr. HUGHES. Mr. Speaker, I rise in strong support of H.R. 2164, the Expedited Consideration of Proposed Rescissions Act of 1992.

If we are to escape the budget woes that plague this country, it is imperative we reduce spending, particularly wasteful or unnecessary spending. H.R. 2164 gives the Congress and the President the mechanism to do just that.

H.R. 2164 brings sorely needed improvement to the current budget process. The measure is far better than a line-item veto in that it respects the balance of powers by involving the President and the Congress in the process.

The bill makes a critically important distinction between authorized and unauthorized pro-

grams. The President may call for an elimination of 100 percent of any unauthorized program, but could only propose to eliminate 25 percent of an authorized program. This is appropriate and reasonable. Authorized programs have already been scrutinized at the committee level, and by the full House. In addition, the President has had the opportunity to veto authorizing legislation.

We are all too familiar with unauthorized programs that are not subject to this type of review, and the extra projects that tend to pop up. H.R. 2164 gives Congress and the President the needed authority to control programs which represent poor prioritization, or unnecessary spending.

The measure is carefully crafted. It imposes a 3-day period in which the President may submit a rescission to Congress. Unlike the line-item veto, the Congress must vote on any rescission proposed by the President. If Congress rejects the rescission, the funds in question would be spent in accordance with the legislation.

Finally, this is a 2-year trial program. At the close of 103d Congress, we have the option to amend this measure if changes are needed, and Congress may extend the bill, or make it a permanent mechanism.

H.R. 2164 will not eliminate our deficit overnight. We must restructure our entire budget process. But this bill addresses one critical aspect of the budget process. It equips us with another means to eliminate those programs which have not been thoroughly scrutinized. It creates greater degree of accountability, and ensures that only programs which are genuinely deserving, are funded by the Congress. I urge my colleagues to vote for this vital legislation. It is the fiscally responsible thing to do.

Mr. GRADISON. Mr. Speaker, I rise in favor of H.R. 2164, the Expedited Consideration of Proposed Rescissions Act of 1992.

I applaud the courage the distinguished gentleman from Delaware exercised in compelling his leadership to bring this measure to a vote. Unfortunately, the leadership saw fit to handicap the bill by bringing it up under suspension so it must garner a two-thirds majority.

Over the past year, the Democratic leadership has fought strenuously against any reform of budget process legislation. Representative STENHOLM was forced to resort to a discharge resolution to bring the balanced budget amendment to the floor. More recently, the Democratic leadership buried a budget process reform bill introduce by the chairman of the Budget Committee by referring it to three committees which had no intention of reporting it. Meanwhile, that same Democratic leadership has repeatedly tried to dismantle the budget discipline we do have.

Today we have a rare opportunity to vote on a series of modest reforms in the rescission process. The most important feature of the bill is a requirement that the Congress take a prompt and timely vote on the President's proposed rescissions.

Currently, any proposed rescission is automatically canceled if the Congress does not approve it within 45 days. Congress can block a rescission by simply refusing to vote on it—effectively exercising a passive veto over the rescission process. Since 1974, the Congress has approved only 35 percent of all proposed rescissions. To its credit however, Congress has initiated rescissions of almost $50 billion.

In my view, the ability of the Congress to block rescissions by simply refusing to act is symptomatic of a bias in the existing budget process against deficit reduction. Most of our budgeting is done on an incremental basis that simply builds on the priorities of the past. Our entitlement programs are automatically funded so that they don't have to compete with other deserving programs. I could name many other examples.

At a time when we are facing record deficits, Congress should be actively engaged in every effort to control spending—no matter how small. If we disagree with a rescission, let us act on our convictions by voting "no."

I would like to add that I am not unsympathetic with concerns that this bill would upset the delicate balance of power between the executive and legislative branch over the budget process. I, for one, have opposed the line-item veto largely on the grounds that it might lead to logrolling between the executive and legislative branches that would result in just the opposite of its intended outcome.

Nothing in this proposal erodes the ability of the Congress to control appropriations. All it does is require the Congress to provide a separate vote for each rescission, if only to defeat it.

We should not be under any illusion that this amendment will solve our budget problems. Programs subject to enhanced rescission constitute 40 percent of Federal outlays. What we really need is to make the decisions that actually cut spending.

Nevertheless, I urge my colleagues to support this modest but positive change in the President's rescission authority.

Mr. MORAN. Mr. Speaker, earlier this week we had an opportunity to vote on a line-item veto.

I voted with the majority in rejecting this provision.

Given the prolonged recession, the seemingly intractable budget deficits and the trillion dollars that has been added to our national debt over the last decade, desperate measures and radical proposals are necessary.

I was not ready, however, to support a line-item veto that would undermine the authority and tip the balance of power against this branch of our Nation's government.

I am pleased to vote today for the expedited rescission proposal, H.R. 2164.

This proposal establishes a constructive procedure to weed out expenditures that were never authorized, without undermining Congress's important control over the appropriations process.

At a time when we are facing a $350 billion budget deficit, we must make sure all expenditures are of legitimate national interest.

This measure before us today will effectively check these expenditures without forcing us to the other extreme.

I would remind my colleagues, however, that while this measure is needed and should be supported it is not a panacea.

It will not balance the Federal budget.

There are no simple or easy solutions for balancing the Federal budget.

Most people assume you can do it by eliminating all the perks, pork barrel projects, all the waste, fraud and abuse within the Federal Government.

This makes good campaign rhetoric, but it does little to solve the problem and distracts us from a constructive dialog on real deficit reduction efforts.

Mr. Speaker, we could lock all Government offices and stop all operations at the Congress, the White House, the Federal and Supreme Courts, the FBI, the Park Service, the Defense Department, the National Institutes of Health, and keep them closed for the remainder of this year, and we would still not balance the budget.

I commend my colleagues to read the recent three-part series by Steven Mufson entitled "The Mortgage on America" that was featured in the Washington Post this past week.

I ask unanimous consent that it be included in the RECORD along with my remarks.

Mr. Speaker, this series explains in very understandable terms what the budget deficit and the $4 trillion in national debt mean in lost opportunities and indirect costs to the American public.

Restoring economic growth and deficit reduction must remain our top priorities.

But, we must be honest with the public on the tough choices we have to make.

The expedited rescission proposal before us today puts the Federal Government on the right track.

With enactment of this measure we can move on to a constructive discussion of other meaningful deficit reduction measures.

## REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON H.R. 776, ENERGY POLICY ACT OF 1992

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file the conference report on the bill (H.R. 776) to provide for improved energy efficiency. This request has been cleared with the minority.

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

Mr. BILBRAY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

## GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this legislation presently under consideration.

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

There was no objection.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I consume. Mr. Speaker, I am delighted to bring this very important budget process reform bill, H.R. 2164, to the floor tonight.

Mr. Speaker, I know my constituents will be delighted to hear the purpose of this bill is to give the President a legis-

lative line-item veto. I have supported the line-item veto for a long time.

The Rules Subcommittee on the Legislative Process, which I have the honor to Chair, last week completed hearings on not only H.R. 2164, but all the legislative line-item veto bills referred to us. In my opinion, H.R. 2164 is the best of them.

Briefly, Mr. Speaker, H.R. 2164 would enhance the President's accountability over spending by allowing him, during the next 2 years, to send Congress special messages proposing to reduce or eliminate specific items in appropriations acts. The bill would enhance congressional accountability because Congress would have to vote up or down on Presidential rescission proposals.

Under the bill, after the President signs each appropriations act into law, he could, if he chose, within 3 days send to Congress a special rescission message proposing to reduce or eliminate amounts of budget authority, essentially line-items, which were contained in that act. The President could propose to cancel up to 100 percent of any unauthorized appropriations in the act, and up to 25 percent of authorized appropriations.

The contents of the President's message would be introduced in the House by the majority or minority leader, or if not, by any Member. It would be referred to the Appropriations Committee, which must report it out within 7 days without substantive change. Within 10 days of introduction, the House must vote on the bill without amendment.

If the House passes the bill, it goes to the Senate, where a similar process would be followed under a similar timetable. Presumably, since the legislation incorporates the President's proposal, he would sign it into law. The rescinded appropriations would be permanently canceled and spending reduced.

If, on the other hand, the legislation is defeated in either House, the President must make the appropriated funds available for obligation.

Mr. Speaker, during our subcommittee hearings we heard testimony suggesting some legislative line-item veto proposals would dramatically shift power from the legislative branch to the executive branch of Government. There was concern expressed that some of the bills before us would essentially require Congress to muster a two-thirds majority in both Houses to implement its spending priorities.

The Carper bill preserves the balance of power between Congress and the President. All the Carper bill does is require Congress to consider and vote on certain Presidential rescission messages, something which Congress is not now required to do. By contrast, current law permits the Congress to reject rescission proposals by inaction, with no vote and no accountability.

Finally, as I indicated, the amendments made by the Carper bill are also temporary, a test-drive, for the 103d Congress only. With any reform, especially procedural reform, there are unforeseen and unintended consequences.

Therefore, it seems a good idea to try this out for a limited time and see how it works. If it proves useful, Congress can extend it or make it permanent. If it doesn't work, we can let it expire. Either way we—and our constituents—will know we have given the legislative line-item veto a try.

Mr. Speaker, I think every witness who appeared before my subcommittee agreed with one idea: That the legislative line-item veto is not the only answer to our deficit problem. In fact, it isn't even a very big part of the answer, since only about one-third of all expenditures could ever be subject to it.

But I believe we must use every weapon at our disposal if we ever hope to win the battle against the Federal budget deficit. I commend the gentleman from Delaware for his fine legislation and urge its adoption.

□ 1940

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

Mr. SABO. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Speaker, I want to thank the gentleman for yielding me this time.

Mr. Speaker, on our Committee on Appropriations, we have carefully examined this legislation. We think it is a mistake to pass this bill.

As you know, rescissions are provided for under the Budget Reform Act of 1974. Down through the years this law has worked and I think worked well. We have Members in the House who are against the Budget Reform Act. They have been against it now for a number of years. We have a chairman of that committee and a ranking minority member and members on the Budget Committee who I think had done a good job through the years.

As the law provides, you know, we not only have rescissions, but we have deferrals under the Budget Reform Act. Over the years, Presidents have requested rescissions from time to time, and the amounts requested, we on our Committee on Appropriations have exceeded the President's requested rescissions about $1.8 billion.

The different Presidents since the passage of the Budget Reform Act have requested $69,300,000,000 in rescissions and we have exceeded the requests of the Presidents and rescinded $71 billion.

During the present year, President Bush requested rescissions totaling $7.9 billion. We have rescinded $8.2 billion.

We held hearings on the different amounts proposed. We carefully examined each request. We then rescinded $8.2 billion.

This clearly shows, Mr. Speaker, that under the Budget Reform Act the provision concerning rescissions has worked and it has worked well.

The present law, as you know, gives us the opportunity to change the request that is submitted by the Presidents in regard to rescissions. We can makes changes in the proposal, not only increasing the amount, but making changes as to the different programs presented and amounts requested.

Under the present bill, as I understand, Mr. Speaker, we must include the President's request for the rescission as it is proposed. There is no change permitted as far as the amount is concerned. A vote would come up or down. There would be no opportunity to change any part of the requested rescission.

Therefore, Mr. Speaker, I would like all the Members of the House now to carefully consider this. In our Committee on Appropriations, we have worked hard this year and it gives me an opportunity at this time to thank the Members on both sides of the aisle.

My chairman, one of the ablest men who ever served in this Congress. He has been a little under the weather, and he asked me, as the No. 2 member on the committee, to help him with these bills. With the help of Members on both sides of the aisle, we took 13 appropriation bills by the last day of July and sent them over to the other body, by virtue of the assistance on both sides of the aisle, and I appreciate it.

Mr. Speaker, we ought to carefully consider this matter. This resolution should be defeated.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PANETTA], the distinguished chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this legislation. I have the greatest respect for the gentlemen from Kentucky and the members of the Appropriations Committee.

I do not view this legislation, very frankly, as either a transfer of power to the President or a threat to the prerogatives of the Appropriations Committee. I view it as an effort to try to expedite the existing process with regard to rescissions. Right now under the existing process, when the President sends up a rescission package if one-fifth of the House wants to discharge that and bring it to a vote, they have the opportunity to do that, or nothing can happen.

Let us use the example of what happened this year. The President offered a rescission package of approximately $7.8 billion. The Appropriations Committee came back with a package of

$8.1 billion. We voted on the appropriations package and then we voted on the President's package, and that is the way it should be done.

The problem right now with the present procedure is that you could face a situation where nothing can happen. In other words, you could have no discharge and you ultimately could not have a vote on the President's package.

I think at the very least the President deserves a vote on his package, and essentially that is what this legislation provides. It provides for a vote on the President's package. It does not take away from the ability of the Appropriations Committee to offer a substitute for what the President presents. If the Appropriations Committee offers that substitute, we vote on it. We then vote on the President's package. That is essentially what this is. This is expedited rescission. That is the title of this legislation.

I commend the gentleman from Delaware for his willingness to work with us in the Budget Committee to clarify some of the provisions here.

I think this represents a step forward.

There are some line-item procedures out there that involve constitutional amendments that I think do represent a transfer of power to the President, that do represent a threat to the Appropriations Committee and their prerogatives. This is not that kind of legislation. This was carefully drafted, and I think for that reason it ought to be supported by the Members.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, would the gentleman tell me if I understood him correctly?

I understand that, under this bill, if the President sends up a rescission the 1st of November, and we are not in session, 10 days later we obviously can't do anything with it. Say it is for the FCC or the FTC. They are not authorized. You could potentially shut down the FTC and the FCC while we are not in session.

Mr. PANETTA. That is not the case. If in fact we are out of session——

Mr. SMITH of Iowa. We cannot authorize it or vote down the rescission when we are out of session.

Mr. PANETTA. My understanding is that if we are out of session and we have adjourned, the President then decides to rescind, we would then pick up the rescission at the beginning of the next session of the Congress.

Mr. SMITH of Iowa. Suppose we are in session. The FCC or the FTC, they are not authorized, so he sends a rescission up. We cannot act in 10 days. What do you do, just shut down the agencies?

Mr. PANETTA. I think what this requires is that we vote on that package. It also requires the Appropriations Committee to submit a substitute. That is what we do now.

I do not see any problem, frankly, in requiring a vote on the President's package. He at the very least deserves that vote. If we do not like what he does, let us vote it down.

Mr. SMITH of Iowa. So we cannot change and increase his package, that is what we have been doing all these years.

Mr. PANETTA. You have increased the rescissions, to your credit.

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

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, when it comes to spending tax dollars, the American taxpayers are demanding accountability. They want to know how their money is spent and they want to know why their money is being spent and they want to know who is spending their money. The taxpayers have a fundamental right to this information, and that is what this legislation is all about.

With the passage of H.R. 2614, the President will be able to rescind a part of an appropriation bill and require the Congress to vote on the specific proposal that the President has rescinded.

I support giving the President this authority, because I believe that every appropriated tax dollar should be done in the open with full public debate. If we in this body, if Members of Congress cannot justify any request that we make of the Treasury, then it should not be approved. That is what this legislation is all about.

The bottom line, with the passage of this bill we will find out if the line-item veto works. I happen to believe very strongly that this legislation will demonstrate that this can save the taxpayers a lot of money, Mr. Speaker. This is the way we should try it, find out if it works, without shifting tremendous power to the executive branch of the Government.

Mr. SABO. Mr. Speaker, does the gentleman from New York plan to yield time? The rest of us have yielded.

Mr. SOLOMON. The gentleman is asking a question that the gentleman knows is a little out of joint, because we thought we had an agreement where we would have the time divided equally. That is not the case, so I thought we would let the opposition get down to our level and then we will participate in the debate. That sounds fair to me.

□ 1950

Mr. SABO. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, a former Member of the House by the name of Jim Neeburk from Massachusetts said to a bunch of freshmen in the House one time; he said, "I understand your problem. You think this place is on the level."

Mr. Speaker, I want to make the point tonight that apparently some people think this debate is on the level, but it is not. I think everybody ought to vote for this because it does not mean anything. And I think we ought to leach all meaning out of this vote because it is a phony. It is a legislative phony, it is a political phony.

A speaker just said he thinks the taxpayers have a right to know exactly who is going to spend all of the appropriation money. Fine. What about all of the tax expenditures? What about the 128 specific tax increases that were voted for in this Congress last year at the request of George Bush?

I say to my colleagues, "If you follow Bush's own accounting system as he applies it to Bill Clinton, why should this only apply to appropriations? Why shouldn't we have an opportunity to have a vote on each and every one of those specific tax items? Every time a bill come out of the Ways and Means Committee, it's locked up like a drum. You can't get a vote on it. Why only appropriated items?"

This issue is not about spending. This issue is about power. The fact is that in Congress it has already been demonstrated that on appropriated items, on requests for rescissions, the Committee on Appropriations has already cut $2 billion more than we were asked to through the rescissions process going back to 1974. So, we have cut more than the amount that we have been asked to cut. We have just done it in a different way, and that does not suit the body at the other end of Pennsylvania Avenue.

Now I would like to make a couple of other points. I want to ask my colleagues this:

"When Lyndon Johnson was President of the United States, trying to ram the Vietnam war down Congress' throat in a sneaky way, in a back door way, how many of you would have had the guts to stand up to him on the Gulf of Tonkin Resolution if he had come to you and said, 'I'm sorry, I tell you, but, if you can't vote with me on the war, I'm sorry. I'm going to have to send down a specific proposal to rescind your program or your project.' You pass a proposal like this, and you give every President the opportunity to eliminate what little courage is left in this institution when it comes to establishing an independent foreign policy." My colleagues, we have a constitutional obligation to avoid that.

The other point I would simply make is this:

As I was saying earlier, this is not a real proposition. What people want to do is to be able to vote for this tonight knowing full well nothing is going to happen to it. I say to my colleagues, "It ain't going nowhere. You get a free vote."

Well, I do not believe that is a credible way to do the public's business either, and, if my colleagues want this baby considered, then consider it in a comprehensive package so that we have an opportunity to vote on tax items, not just appropriated items. That is the way to do it.

Second, I want to correct a misstatement made by the chairman of the Committee on the Budget. He said that the committee will have the authority, if they want, to change the rescissions sent down by the President. That is not true as we read it. As we read it, Mr. Speaker, if the committee reports a different proposition than that which is sent down by the President, then what happens is that the President is entitled to impound on any item until there is a specific vote on the House floor. That is an opportunity for any Executive to intimidate any Member of this body.

Mr. Speaker, I would say to the gentlemen on that side of the aisle, "Given the shape that your nominee is in these days, I'd be very worried about giving that power to a Democratic President. I'd be very worried about it because you're going to have a chance to operate under that system."

So, my advice to my colleagues is this vote does not mean beanbag. It is a political phony. If my colleagues want to pose for political holy pictures, go ahead and do it, but let us not pretend when the votes go up tomorrow that it is real.

I say to my colleagues, "I encourage all of you to vote for it. It's just like another phony motion to instruct on a conference report. When you want to be serious, when you want to give us a right to debate this with some time to analyze it so we know what is in it, when we have enough time to deal with it so that the Budget Committee chairman knows what's in it, then I'm happy to debate it."

Mr. Speaker, right now it is obvious there is confusion about what this means. It is a lousy way to legislate 2 days before the end of the session. This is the kind of idiocy we usually reserve for tax bills, and I just do not think we ought to do it.

In my view, vote for it. It does not mean beanbag. Vote for it. It does not mean beanbag. When my colleagues want to bring a real vote to us, fine, we will consider it. But give us an opportunity to amend, give us an opportunity to shape it so that we are doing what they are merely pretending that they are doing this evening.

Mr. SOLOMON. Mr. Speaker, I think it is time we got into the debate, and I yield myself 4 minutes.

Mr. Speaker, in answer to the previous speaker: I am so confident that George Bush is going to win this election and come from behind that I am going to support this legislation, the legislation that is a watered-down version of the line-item veto, but at least it is a step in the right direction.

I think there is sincerity on the part of both sides, and I particularly want to commend the gentleman from Delaware [Mr. CARPER] for his efforts, and the gentleman from Texas [Mr. STENHOLM], and the gentleman from Minnesota [Mr. PENNY] and others, and I comment the floor manager, the gentleman from South Carolina [Mr. DERRICK] also for holding the hearings that have helped lead to this day even though we have this watered-down version on the floor.

I also want to acknowledge the Speaker for at least scheduling this under the suspension rules for what I understand he has characterized as a symbolic vote, and I guess that was reemphasized by the previous speaker, the gentleman from Wisconsin [Mr. OBEY]. But I guess it is symbolic because the Speaker knows the bill will not make it through the other body, and that is really too bad. Had it not been for the Speaker's 13th hour conversion last Wednesday when the rule on the continuing appropriation resolution was about to be defeated, was trailing with a vote of 202 to 204, I believe we might have had an opportunity to consider a real line-item veto amendment to the CR, the continuing resolution, that day, and I had a letter indicating that the President of the United States would have signed that amendment into law, and we really would have had a line-item veto. Had that happened the President today could be exercising the line-item veto rescission authority over items in the appropriations bills we have been sending to the White House for the last several weeks now.

So, Mr. Speaker, I really do regret we are left today with little more than a symbolic vote, but since so much in politics is a matter of symbolism, I suppose we should milk this symbol for what it is worth.

For one thing, this vote symbolizes the continuing reluctance of the majority leadership to give us a real vote on a real line-item veto that will be signed into law, notwithstanding the clear support of an overwhelming majority of the American people. It also symbolizes the resistance of the majority leadership to heed even their own presidential candidate who has exercised the line-item veto as a Governor of Arkansas and who favors a line-item veto.

Yes, he might be the President. Let us give it to him.

Mr. Speaker, it also symbolizes just how out of touch the majority leadership is when the American people overwhelmingly, by 70 percent, support any President, whoever he might be, having this authority.

Mr. Speaker, I favor the bill before us today because it is an improvement over the current rescission process which is nothing more than just a copout. It lets us take no action whatsoever, and then nothing is done.

□ 2000

This bill does accelerate and compress the Congressional review period for proposed rescissions, and it ensures that we will have an opportunity to cast an up or down vote. It specifically prohibits amendments to these rescission proposals, and it also prohibits suspending those expedited procedures.

The bill before us as amended confines, and this is the important part, the President to rescinding no more than 25 percent of the budget authority for any authorized matter over the next 2 years, 25 percent of any authorized program.

Mr. Speaker, I have sent a colleague letter to every Member in which I indicated my support for this bill. But I also made it clear in that letter that if this bill does not pass this House and does not pass the Senate as well in the next couple of days, I will renew my efforts to attach a true line-item veto to whatever continuing resolution is out there on the last day.

Mr. Speaker, I urge support for the resolution, and I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in strong support of H.R. 2164, the expedited rescission bill. I want to commend my colleague TOM CARPER for his efforts in bringing this bill to the floor today. He has worked tirelessly to put together a bipartisan consensus behind a compromise bill that improves the ability of Congress and the President to review questionable spending without disturbing the balance of power between the two branches.

I have concerns that a line-item veto with a two-third vote to override could give the President authority to write appropriations bills with the support of only one-third plus one of Congress. I do not want to give this type of power to any President.

Mr. Speaker, I would like to try to answer some of the questions of the gentleman from Wisconsin [Mr. OBEY] just a moment ago.

As far as to the complaint of brining this up at this hour, it is not our fault. We worked at this for the last several months to try to have this considered in the duly elective process, and we failed.

I would also point out to my colleagues we worked awfully hard to get a balanced budget constitutional amendment. We lost. The day after we went to work in the regular process, many of the same folks arguing against this said do it in the regular legislative process. We passed a bill out of the Committee on the Budget. It was referred to other committees and it died, because we did not want to consider it.

The gentleman from Kansas [Mr. SLATTERY] a moment ago talked about accountability. That is what we are talking about.

The gentleman from Wisconsin [Mr. OBEY ] and the other appropriators who are concerned about this coming from the President, all you have to do is propose a separate appropriation rescission bill. And if in the wisdom of this body right here the majority agree with you and not the President, we will vote for it. That is all we are trying to do, is we are trying to get a majority vote of the will of the House, not a majority of the will of the Committee on Appropriations on an appropriations bill.

To my colleague who a moment ago said why don't we bring a separate bill on taxes and entitlements? Bring it. Bring it. I will support it enthusiastically. That is exactly what we need to be doing, bringing accountability to this body, and stop this endless blaming between the President and the Congress regarding who is doing what.

The gentleman from Kentucky very accurately stated the work of the Committee on Appropriations. None of us are concerned about that. It is the total work of this body collectively, and the other end of Pennsylvania Avenue, that we are concerned about, and we believe this modified rescission order process brings accountability to both ends of Pennsylvania Avenue and deals with the top three problems of our Nation: the deficit, the deficit, and the deficit.

That is what we are talking about. Not placing blame. We are talking about an expedited rescission bill to be tried for 2 years. If it does not work. change it to where it will.

Unlike the line-item veto, expedited rescission proposals preserve the power of congressional majorities to control spending decisions. Expedited rescission does not give the President undue leverage in the appropriations process because funding for the program will continue if a simple majority of either House disagree with him.

This bill will not change the balance of powers between the branches, but will increase the accountability of both branches. No longer will a President be able to escape responsibility for government spending by simply blaming Congress for giving him a choice between accepting wasteful spending or shutting down parts of the government by vetoing an entire appropriations bill. No longer will a President be able to hide behind antispending rhetoric without taking action. This bill says to the President: If you are serious about cutting spending, provide leadership by making reasonable recommendations of spending to cut and convince a majority of Congress that the spending should be eliminated.

This bill will also increase the ability of this body to review individual spending programs. As we all know, the fact that a program was included in a larger appropriations bill that was passed does not in any way mean that the majority of Congress approved of that program. For example, when Congress passed the agricultural and rural development appropriations bill in 1990, the majority of the Members did not endorse spending on Lawrence Welk's home. Requiring a second vote on individual items included in a omnibus appropriation bill is a reasonable response to realities of the legislative process.

Again, I urge my colleagues to support this small, reasonable reform of the spending process.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I just take this time to point out we are not just talking about projects that some people like to call pork barrel projects. We are talking about whole departments.

For the last several years, for example, the Presidents have sent up budgets that zeroed out Amtrak. They sent up budgets that zeroed out the Legal Services Administration, EDA, Juvenile Justice, a number of whole programs.

Now, if you do not want Amtrak, you can vote against it in the appropriations bill. But after we have passed the appropriations bill under this process, the President could send up a rescission for Amtrak and you have to go through another whole process or stop the trains, I guess.

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

Mr. SMITH of Iowa. I yield to the gentleman from Delaware.

Mr. CARPER. Mr. Chairman, I would ask, under the provisions of this bill, if the President signs in this case a transportation appropriations bill, sends back a rescission to eliminate funding for Amtrak, all we do in the House of Representatives is vote up or down. If a simple majority of us want to restore funding to Amtrak, we simply vote a simple majority. Not two-thirds, but a simple majority.

Mr. SMITH of Iowa. Mr. Speaker, Reclaiming my time, as I understand it you have to defeat the President's proposal within 10 days. If you cannot get it within 10 days, it is impounded and the trains might stop, period, right there, until you can get positive action. Is that not right?

Mr. CARPER. Mr. Speaker, if the gentleman will continue to yield, the idea is to compel the House and the Senate to vote.

Mr. SMITH of Iowa. Reclaiming my time, the idea as I get it is to send all the power down to the other end of Pennsylvania Avenue. He can stop the trains in spite of the fact that every district in this country may want a program. This does not just balance up the power; this puts way too much power down at the other end of Pennsylvania Avenue.

Mr. CARPER. If the gentleman will yield further, if we required a two-thirds vote, a two-thirds majority in the House and in the Senate to overturn a President's rescission, I would agree with you. We do not do that here. A simple majority in either the House or the Senate defeats the President's rescission.

Mr. SMITH of Iowa. Mr. Speaker, reclaiming my time, we are not just talking about a few projects, we are talking about whole programs and departments.

The SPEAKER pro tempore [Mr. MAZZOLI]. The Chair wishes to announce that the gentleman from South Carolina (Mr. DERRICK) has 3 minutes remaining, the gentleman from Minnesota [Mr. SABO] has 7 minutes remaining, and the gentleman from New York [Mr. SOLOMON], has 6 minutes remaining.

Mr. SOLOMON. MR. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL], the chairman of our Pork Busters Task Force.

Mr. FAWELL. Mr. Speaker, I commend my colleagues on the other side of the aisle who are sponsoring this bill. I know that the gentleman from Delaware [Mr. CARPER], the gentlewoman from South Carolina [Mrs. PATTERSON], the gentleman from Texas [Mr. STENHOLM], the gentleman from Minnesota [Mr. PENNY], and others have been laboring consistently and quietly and trying to do everything possible to see that there is some opportunity to have at least a very modified, enhanced rescission bill. Certainly I look upon this as a relatively weak bill, but it is at least the first step of a 1,000-mile journey toward hopefully someday being able to help us to balance the Federal budget.

Once again, I hear those who are still lamenting, some I hear now, in regard to the passage of any type of line-item veto legislation; the latest defense is we are posing for holy pictures, that this cannot go through, that it is only symbolic; it seems to me the Congress is very petrified about the President having any real bipartisan participation or any kind of participation in the appropriation process. Yet I hear from your side of the aisle continuously that the President is 1,000 percent responsible for all of this Nation's debt and deficit and so forth and so on.

Well, if the President is so responsible for the debt and the deficit—and the debt is now $4 trillion, and the Federal Government pays $300 billion a year just to pay interest on it—then at least do you not think he ought not to be able to have just a little bit of an opportunity to play some part in the appropriation process which results in so much overspending; to suggest to

this body that there are certain appropriations identified by line item that constitute wasteful or unnecessary spending which must be bundled in one rescission message? To me that is asking so very, very little. With a simple majority vote, you can turn the President back.

I think the fear that this body has that the President or Pennsylvania Avenue may have, under this bill, extraordinary powers is absurd. They are protecting their own special interests. Their fear is misplaced. Their fear ought to be in regard to the growing national debt and the annual deficits that we are piling onto our children and our grandchildren to ultimately pay. We resist like an alcoholic anything that would modify any of Congress' power to spend. Congress is like an alcoholic being denied his power to drink himself to death. Congress feels it has got to continue to imbibe in overspending.

One of these days I expect somebody over there will snap and say "Stop me before I spend again."

This bill is such a mild suggestion, that maybe this monstrous turnabout that Congress must go through can begin by just this little bit of a turn—now.

It is not asking very much. We are not talking only about pork, as the gentleman from Iowa [Mr. SMITH] did say. I would agree with the gentleman there. We are talking about being able to take the first toddling step to save this Nation from the senseless, profligate overspending that just seems to go on and on and on. We resist like an alcoholic, I repeat, even the mildest of medicine.

□ 2010

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

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

In light of the previous comment, I would simply like to make this point: No Congress since Harry Truman has ever been able to change any President's budget by more than 3 percent. So let us not suggest that somehow Congress is responsible for those deficits.

The Congress has rolled through the budgets that every President has asked for virtually untouched. The problem is not that the Congress has stood up to Presidents; the problem is that they have not.

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

Mr. OBEY. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Speaker, here is the opportunity. We have not been successful. We have an opportunity now to join in a bipartisan effort to do some cutting. We are in control. A simple majority will stop the President from doing this.

Mr. OBEY. Mr. Speaker, with all due respect, we have done the cutting. We have done more cutting than the President has asked for. We are simply trying to maintain the integrity of the process.

Mr. FAWELL. Mr. Speaker, if the gentleman will continue to yield, we have not done the cutting that people are asking for. We cannot compare ourselves to the President. We must compare ourselves to what the people expect of us.

Mr. OBEY. Mr. Speaker, this does not do anything about that.

Mr. FAWELL. Mr. Speaker, it gives us the opportunity; the opportunity is there, if we want to take it.

Mr. OBEY. Mr. Speaker, it is a phoney opportunity.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from South Carolina [Mrs. PATTERSON].

Mrs. PATTERSON. Mr. Speaker, today we have an opportunity to bring honesty and accountability to the Federal budget process. I rise in strong support of H.R. 2164.

First, I must commend my colleagues Mr. CARPER, Mr. STENHOLM, Mr. JOHNSON, and my friends across the aisle. Because of this bipartisan, cooperative approach, we are able to stand here together and craft worthy public policy. This bill that we support today gives the President and the Congress the opportunity to cut wasteful spending.

Over the past several months, we have heard much discussion on what language a line-item rescission bill, a statutory line-item veto bill, should contain. This open debate has been useful in bringing the issues of wasteful spending to the forefront. But the time to act is now.

This bill in no way diminishes either the President's or the Congress' current authority. It sets out the guidelines for expedited line-item rescissions, and requires a vote on the proposed rescissions.

H.R. 2164 makes sense. Within 3 days of signing an appropriations bill, the President may submit a rescission proposal to Congress. The President may line-item out 100 percent of unauthorized programs, and 25 percent of authorized programs. Within 10 days, Congress has to vote on the rescission message. The funds are not spent until Congress votes. Finally, this bill sunsets in 2 years.

Some will say that this is not strong enough; that the rescission should take effect unless Congress disapproves it. The fundamental denominator is that there will be a vote on what the President decides to line-item out. The importance of this was highlighted by President Bush in his Budget for the United States Government for Fiscal Year 1993, where he supported "legislation to enhance the existing rescission procedures by requiring an up-or-down vote in Congress on Presidential rescission proposals."

Some will think that this gives the President too much authority. However, H.R. 2164 does not surrender the power of the purse to the executive branch. Under this bill, Congress must approve the rescission.

With a $352 billion deficit, and a $4 trillion debt, we cannot afford to ignore any suggestions for spending cuts. While this bill will not cure our financial ills, it will provide us with a tool to help reduce the deficit.

H.R. 2164 has been cosponsored by 226 Members of the House, both Republicans and Democrats. We are doing something right. This bill is also supported by Citizens Against Government Waste, Citizens for a Sound Economy, the National Taxpayers Union, National Association of Manufacturers, the National Grange, the Helicopter Association International, the National Independent Dairy Foods Association, and the U.S. Business and Industrial Council.

I strongly urge my colleagues to support H.R. 2164.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair advises that the gentleman from Minnesota [Mr. SABO] has 6 minutes remaining, the gentleman from New York [Mr. SOLOMON] has 3 minutes remaining, and the gentleman from South Carolina [Mr. DERRICK] has 2 minutes remaining.

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

Mr. Speaker, I am always sort of intrigued by these discussions. It always leaves me a little bewildered at times, as a member of the Committee on Appropriations, on what we should be doing, particularly whenever I hear from Members who would appear to say that we should not be appropriating for unauthorized programs, and then we get letters from those same Members thanking us for the dollars that were appropriated to the unauthorized programs. At times I wonder why they ask for it, say "Thank you", and then complain about appropriating for unauthorized programs.

Maybe the gentleman from Delaware can explain it. Let us be clear about one thing here. We are talking about trying to fix a process that is not broken and pretending we are doing something.

Since 1974, Presidents have requested approximately $69 billion in rescissions. The Congress has approved $71 billion of rescissions, $2 billion more. Just this year, 1992, the President requested about $7.9 billion of rescissions. The Congress rescinded $8.2 billion in one bill alone.

So if my colleagues think the issue is the discussion of the deficit and spending, it is not. It is just simply that some Members do not like the fact that the power exists in the Congress to take the appropriate recommendations

of a President, consider them and, in many instances, modify them.

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

Mr. SABO. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Speaker, I do want to point out that the rescissions this year were brought about by the Presidential rescissions, and for the first time we actually went ahead and those were filed. And there was a bipartisan coming together.

Mr. SABO. Mr. Speaker, is the gentleman from Illinois suggesting this is the first time the Congress has responded to a request by the President and passed rescissions?

Mr. FAWELL. Mr. Speaker, if the gentleman will continue to yield, I am pointing out that this year that was the case and that previous years, as a practical matter, most of the rescissions were rescissions that would have been given anyway because they had lapsed and they were rescissions that did not hurt at all.

The Presidential rescissions, when he makes those requests, we hardly ever specifically rescind what he is asking for.

Mr. SABO. Mr. Speaker, since 1974, rescissions of $69 billion were requested by the President, and $71 billion was rescinded by the Congress. It is clear that the issue involved here is not the deficit. It is not spending. It is about a little bit of power between this branch and the executive.

Fundamentally and most important, it is pretending we are doing something, before an election, on a major national problem, when, in fact, we are doing nothing.

The only thing we are doing is sort of tilting the power to the President from the Congress. Why we want to do that for a process that is not broken is beyond me.

Let us have our good time. Let us pretend we are doing something, as we do on many other things. Vote as one wants to vote. It is not going to do anything to deal with the deficit problem. It is not going to fundamentally change the spending patterns in this country.

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

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

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

Mr. Speaker, to discredit this effort, as the gentleman is doing, I think requires a response of him to this question also on the budget process: Since 1974, this body has waived that Budget Act 630 times through March 1 of this year.

Mr. SABO. Mr. Speaker, let me respond. I do not know what the relevance of that is. We waive it for all kinds of purposes.

Mr. STENHOLM. Mr. Speaker, that is the point.

Mr. SABO. Sometimes we have not passed a budget resolution. Sometimes there are basic ongoing programs that have never been reauthorized. Whatever the reason, it is not the fault of Appropriations which, in total, are usually under the President.

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

Mr. SABO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I want to give my colleagues an example of how the President can use this to expand spending. I have cut the President's foreign aid budget by $1.2 billion. We give him this authority, he is going to be able to come to me or any other chairman and say, "Hey, if you don't lay off my foreign budget, if you don't lay off my favorite spending program, I am going to embarrass the hell out of you on whatever you want done most."

It gives the President that kind of power, and that means we give him the power to leverage spending up, not down. I do not think that is a very smart thing to do.

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

Mr. SABO. Mr. Speaker, we were very happy we were able to accommodate the gentleman in appropriations bills this year. I yield to the gentleman from Delaware.

Mr. CARPER. Mr. Speaker, let me just say, what we really want to do is we had a procedure that worked this year where the President sent a rescission package to the House. We voted. We did not change it. We voted up or down on it, simple majority. We defeated it.

The appropriators themselves prepared their own package that I think better reflected certainly the priorities of our caucus. We voted on it up or down, and we approved it.

Mr. SABO. So the process worked.

Mr. CARPER. Mr. Speaker, if the gentleman will continue to yield, we would like to make that, with this legislation at least, for the next 2 years, the way it works every time.

□ 2020

Mr. SABO. Mr. Speaker, I would say to the gentleman, we have made different choices over the years, since 1974. Collectively we have passed $2 billion more in rescissions than Presidents have asked.

Mr. CARPER. Would the gentleman yield?

Mr. SABO. I can understand why a potential Governor might like this. I yield to the gentleman from Delaware.

Mr. CARPER. Mr. Speaker, those of us who crafted this proposal liked the way it worked this year. We simply would like to try it for 2 years.

Mr. SOLOMON. Mr. Speaker, I am very proud to yield 2 minutes to the gentleman from California [Mr. DREIER], a very distinguished member of the Committee on Rules.

Mr. DREIER of California. Mr. Speaker, we have been talking about the 1974 Budget Impoundment Act. Eighteen years ago we saw the President's rescission authority weakened. Since that time there have been 564 rescissions which have basically been ignored by this Congress.

I have to say, Mr. Speaker, that it is important for us to recognize that the gentleman from Minnesota and the gentleman from Wisconsin, my friend, are right. This is not the line item veto. The American people are out there telling me when I am at home, and I know are saying to friends on both sides of the aisle, "We need to implement the line item veto so the President can have the same power that 43 Governors in this country have, the ability to look at a massive appropriations bill," which this institution sends down to his desk and say, "Sign it or veto it." He is given that choice.

The line item veto authority would give the President the opportunity to blue pencil out certain wasteful pork barrel spending programs. That is what the gentleman from New York [Mr. SOLOMON] wants to see us give the President.

My friends on the other side of the aisle are absolutely right, this is not that authority. It is a very small step. The gentleman from Wisconsin [Mr. OBEY] says that it is nothing. I would like to think that this is something, so I do not want our colleagues to believe for a moment that we are in any way implementing that line-item veto authority.

I have heard a number of speeches here from the well and over the past several weeks which might lead constituents to believe that those who are strongly supporting this compromise, and I congratulate my friends on the other side of the aisle who have made an attempt to try and compromise on this, but frankly, I think it is a very poor compromise. I do not believe for a second that it gets at the root of the problem.

Plenty of speeches could be made here in support of this measure saying, "We are implementing what the American people want," and tragically, Mr. Speaker, it is a long way from what the American people want.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] has the right to close, and the gentleman from Minnesota [Mr. SABO] has no time remaining.

Mr. SOLOMON. Mr. Speaker, I yield myself the remainder of our time.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 minute.

Mr. SOLOMON. Mr. Speaker, one of the previous speakers made a statement that the process is not broke.

Well, if it ain't broke, how did we get ourselves in this sea of red ink that is just drowning this Nation? I again have to commend the gentleman from Delaware [Mr. CARPER]. He is a most distinguished Member, and I hope he goes on to great success when he leaves us. We are going to miss him.

I commend the gentleman from Texas [Mr. STENHOLM] and the gentleman from Minnesota [Mr. PENNY] and the gentlewoman from South Carolina [Mrs. PATTERSON] and all of the Republicans on this side almost unanimously who support a line-item veto. I am just sorry that this is not the line-item veto.

I want everybody to vote for this bill. It is a step in the right direction, but I want to put everybody on notice that if we are being sandbagged and if some kind of deal has been made over in that other body where there is a bird over there named BYRD, and this bill is going no place over there, I am going to tell the Members, there are going to be problems. We are going to attach a true line-item veto to the last CR of the day that we are going to be here on Monday or Tuesday, and we are going to have, finally, a true line-item veto up or down vote.

I do thank the gentleman from Delaware [Mr. CARPER] for all of his efforts, and we hope this bill successfully passes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMP.

The SPEAKER pro tempore. The Chair would advise the Members to be cautious in their reference to Members of the other body and to follow the House rules.

Mr. SOLOMON. Mr. Speaker, I apologize.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 2 minutes to close debate.

Mr. DERRICK. Mr. Speaker, I yield the balance of my time, 2 minutes, to the distinguished gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, let me begin simply by yielding to the gentleman from Minnesota.

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

Mr. Speaker, this proposal could be described as a line-item veto with a majority override. I think it is a good step, and I urge its adoption.

Mr. SPEAKER, I rise in support of H.R. 2164, the Expedited Consideration of Rescissions Act introduced by our colleague TOM CARPER. I want to commend the gentleman from Delaware for his leadership in doggedly pursuing this legislation. I want to also thank the other principals who have pushed for passage of this measure: LIZ PATTERSON, TIM JOHNSON, CHARLIE STENHOLM, JERRY SOLOMON, and DICK ARMEY. Only their diligent work has brought us to this point.

This bill would amend the 1974 Budget Act to establish a process to expeditiously consider Presidential rescissions. After signing an appropriations bill into law, the President would have 3 calendar days to submit to the House a recession message containing all rescissions proposed related to the bill just signed. Under the terms of H.R. 2164, the President is authorized to rescind up to 100 percent of unauthorized appropriations and up to 25 percent of authorized appropriations. The bill would be referred to the appropriations panels in both the House and Senate. The committees cannot substantively amend the bill and must report it within 7 calendar days to the House. Within 10 calendar days of introduction, the House must then vote on the resolution, which is debated for a total of 4 hours and cannot be amended. If a majority of the House votes to approve the resolution, it is sent to the Senate, where a process begins similar to that followed by the House.

If a simple majority in either the House of Senate does not vote to approve the resolution, the rescissions are rejected. But the important point is that we will finally face votes on rescissions. The authors of special interest provisions tucked away in spending bills will have to defend their actions and if a project or projects survive a vote, only then would it go forward. I firmly believe that more times than not, unauthorized and wasteful spending will not survive the light of day and a vote by the Congress.

Some will argue that this legislation transfers too much power to the President. That is simply not the case. Under the legislation, no rescissions go forward unless approved by the Congress. Furthermore, the bill sunsets after just 2 years, so if this is not a workable process, we can review it of let it expire.

This measure, Mr. Speaker and colleagues, is a very modest attempt to put in place a workable process to handle Presidential rescissions. This might be described as line-item veto subject to a majority override in Congress. Frankly, I would support broader line-item veto authority for the President. But this measure is a good start and it deserves the support of every Member concerned about the runaway national debt and our children's future. I urge adoption of H.R. 2164.

Mr. CARPER. Mr. Speaker, I yield to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. I thank the gentleman for yielding to me, and I commend him for his leadership. I rise in strong support of H.R. 2164.

Expedited rescission, as contained in this legislation gives the Congress and the administration a crucial tool in the fight to restore accountability and responsibility to the budget process. We've talked about the need to eliminate wasteful spending. Now we have a way to do it.

H.R. 2164 allows the President to submit one rescission bill per appropriations bill. The President may propose cuts of up to 25 percent in authorized programs; unauthorized programs may be cut up to 100 percent. A majority in either body may reject the proposed rescission. And, we may offer an alternative rescission package to the one offered by the President.

We need this reform. Expedited rescission was considered at the 1990 Budget Summit but not included in the final package. It is past time to make it part of our budget process. Expedited rescission requires us to establish and follow priorities when we spend taxpayers' money. It gives Congress authority to eliminate programs we don't need and can't afford. It will help restore confidence that Congress can discipline itself to spend wisely.

During recent Budget Committee hearings on the state of the economy, three prominent economists all agreed that the best long-term strategy for economic growth is deficit reduction. Expedited rescission alone will not eliminate the deficit. But it will allow us to take aim at the parts of the budget that most need to be cut. Passage of this expedited rescission package sends a clear signal: We are serious about deficit reduction.

I urge all my colleagues to cast their vote for H.R. 2164.

Mr. CARPER. Mr. Speaker, I want to express my gratitude to the Speaker for making it possible for us to debate this measure here this evening and to vote on it. I want to express my gratitude to the gentleman from South Carolina [Mr. DERRICK] for holding the hearing.

For those who have spoken here tonight and have criticized this legislation, I wish they might have been here, and I think they would have heard speaker after speaker, witness after witness, saying there may be some value to expediting rescission powers and urging its adoption.

I want to acknowledge particularly those who coauthored this legislation, the gentlewoman from South Carolina [Mrs. PATTERSON], the gentleman from South Dakota [Mr. JOHNSON], the gentleman from Kansas [Mr. GLICKMAN], the gentleman from Texas [Mr. ARMEY], the gentleman from New York [Mr. SOLOMON], and former Congresswoman Lynn Martin.

Mr. Speaker, let me just say we have witnessed here tonight one of the primary reasons why we need to take a modest step, as this legislation represents. This is a war of words. It has gone on between the executive branch and the legislative branch with regard to rescissions and line item veto powers for years. Presidents say, "We send rescissions. You never vote for them." Congressmen say, "We rescind all the time and it does not amount to anything."

Let us end that kind of debate once and for all, and let the President know that when he sends a rescission message to this Congress, he is shooting with real bullets. We want to make the President accountable, and we want to make ourselves accountable.

This legislation before us has strong bipartisan support. Over half of the House of Representatives has cosponsored it, an equal number of Democrats and Republicans. It is supported by the Speaker, by the administration, and it is supported by the nominee of our party.

It represents incremental change, not a sea of change in terms of power, but

incremental change. It is constitutional. It strengthens the authorization process. It provides value for the authorization process. It assures speedy action with respect to Presidential rescissions. They do not drag out for weeks or months, but we act on them in a speedy way. We minimize uncertainty. We do it for 2 years, a 2-year test drive.

Again, I would urge the adoption of this measure.

Mr. ANDREWS of Texas. Mr. Speaker, I rise in strong support of H.R. 2164, the expedited rescission proposal sponsored by Congressman CARPER.

I came to Congress very much opposed to the line-item veto. I have always believed that it would shift far too much power and leverage to the President, unfairly tilting the system of checks and balances between the legislative and the executive branches.

It is no surprise that John F. Kennedy, Jimmy Carter, Ronald Reagan, and George Bush and Bill Clinton have all voiced support for the line-item veto. Can you imagine how a President like Lyndon Johnson could use this provision to his advantage?

President Bush's line-item veto proposal, for example, would effectively shift the congressional power of the purse to the executive branch, allowing for the deletion of any item in any spending proposal and requiring a two-thirds majority vote by the Congress to override the President's veto.

Yet the ability to eliminate wasteful and unjustifiable programs from a large spending bill is attractive. As Nikita Kruschev once said:

"Politicians are the same everywhere * * * they will build a bridge where there is no river."

Last year's highway authorization bill is a case in point. This bill allocated 35 percent of the $6.5 billion in Federal highway funds available for demonstration projects to only five States, including funding for the following programs: $35 million for a monorail in Altoona; $1.6 million for a state-of-the-art technology project to control rock slides in Lewistown; and $14.2 million to elevate 14 bridges over Molly Ann's Brook.

I am a cosponsor of the expedited rescission proposal because this bill maintains our governmental system of checks and balances while also increasing the accountability of both the executive and legislative branches for reducing the deficit.

The expedited rescission proposal restores accountability to Federal spending practices by allowing the President, with the approval of the Congress, to rescind funding for those programs that are slipped into appropriations bills—such as the renovation of Lawrence Welk's home—without the prior authorization of the Congress.

This bill adds to current law by providing a mechanism for the expedited consideration of those proposed Presidential rescissions that meet its specific criteria, without shifting the balance of power to the President by requiring only a simple majority vote by the Congress to approve or defeat the proposed rescissions.

And lastly, this bill is binding only for 2 years—if it fails to increase spending accountability or has unforeseen consequences, the expedited rescission can be improved or repealed altogether. As I see it, this is one tool to restore fiscal accountability that the Congress cannot afford to pass by.

Mr. GLICKMAN. Mr. Speaker, as you know, the Impoundment Control Act of 1974 established rules to allow the President to rescind funding amounts in appropriations bills with congressional approval. The purpose was to give the President additional authority to check spending. However, the current law is flawed because it does not require congressional consideration of the Presidential rescission messages. If Congress does not approve the rescissions within 45 days, the money is automatically released for use.

There have been very few votes on Presidential rescission messages. I do not believe this process was what Congress intended when it originally passed the law. In the minds of many, the only way to fix the law is to pass a line-item veto amendment. I believe to do that would be a serious breach in the balance of power between the executive and legislative branches as set out in the Constitution. To pass a line-item veto amendment would constitute a major shift of power to the President, something our Founding Fathers clearly wanted to avoid when they gave the power to appropriate money to the Congress.

However, the fact remains that in the eyes of the American people, Congress has proven incapable of taking the budget deficit seriously by refusing to cut spending and by constantly loading down appropriations bills with pork barrel projects. I have heard from hundreds of constituents demanding that the President be given the line-item veto to check congressional excess.

I think a far better, and constitutionally sounder, approach to giving the President more authority to cut spending would be to adopt an expedited rescission policy like the Carper bill. Unlike current law, the Carper bill requires Congress to vote on the President's rescission message within a specified time period. If either body fails to do so, the funds will remain impounded until Congress acts to defeat the President's rescission bill.

Requiring Congress to take the President's spending recommendations seriously will bring some much needed accountability to the appropriations process. Too often, appropriations conference reports arrive in the House loaded down with hometown goodies that were not authorized by either body, forcing Members to choose between voting to fund much needed domestic and defense programs and voting against blatant pork barrel spending. Who can forget the Lawrence Welk fiasco?

Under the Carper bill, both the President and the Congress would have to take responsibility for their spending decisions. Currently, the President can mask the true size of his budget proposals by suggesting spending cuts in all sorts of areas he knows not even members of his own party would support. He doesn't have to worry though, because he knows Congress will never vote on them. So, he can continue to accuse Congress of wasteful spending by ignoring his own proposals. Under the Carper bill, the President will have to consider every rescission choice seriously because Congress will have to vote on them.

Similarly, Members will have to make tough choices about the type of spending they will support. This will put every Member on record showing their level of commitment to unauthorized, pork barrel appropriations or true deficit reduction.

Mr. Speaker, it is past time to put accountability back into the budget process. An expedited rescission policy would ensure that Congress and the President pay more than just lip service to cutting spending. With such a law, we could get on with the serious business of reducing the deficit and the national debt. The American people expect it and deserve it. Vote yes on the Carper bill.

Mr. CONYERS. Mr. Speaker, as chairman of the committee of jurisdiction, I must rise in opposition to H.R. 2164.

This bill affects substantial changes in the timing and scope of Presidential rescissions, and amends the process through which the Congress agrees to or rejects such actions.

Although rule X(1)(j)(1) grants legislative jurisdiction to the Committee on Government Operations over "[b]udget and accounting measures, other than appropriations," H.R. 2164 is being placed before the House under suspension of the rules without going through regular and normal legislative proceedings before our committee.

There has not been one hearing on this measure. H.R. 2164 has not been considered by any Subcommittee of Government Operations. It has not been marked up at either the subcommittee or the full committee level of Government Operations. Nor has any report on this legislation been filed with the House by the Committee on Government Operations.

Yet the House of Representatives is nonetheless going to consider this legislation, which drastically alters the system of checks and balances between the executive and legislative branches of Government.

In addition, on the merits, H.R. 2164 has a number of defects, which should counsel this body to reject it.

First, this bill is based on a false premise—that Presidential rescissions promote greater spending restraint. As a matter of historic fact, it is the Congress, not the President that has led the way in rescissions—nearly $50 billion has been rescinded at the initiation of the Congress, while only $21 billion has been rescinded at the President's request.

Second, H.R. 2164 limits rescissions to 25 percent of appropriated amounts, but only for programs authorized by law. For programs that operate without express statutory authorization, there is no 25-percent limitation. Thus, unlimited Presidential rescissions could affect whole departments such as the Department of Energy, the Department of Justice, the Federal Trade Commission, the Federal Emergency Management Administration, the Nuclear Regulatory Commission, and the Securities and Exchange Commission. This is a matter of grave concern that should be subject to committee review, at a minimum.

Finally, H.R. 2164 opens a potential floodgate that could paralyze the legislative process. The bill establishes extremely short time frames for legislative action on proposed Presidential rescissions. By flooding the Congress with rescission proposals, the President could effectively dictate the legislative agenda. Such a change surrenders congressional prerogatives to the President.

In sum, H.R. 2164 is unwise legislation. I do not believe that the Committee on Government Operations would look with favor on this proposal. I urge my colleagues to defeat this bill.

Mr. SWETT. Mr. Speaker, I rise in strong support of H.R. 2164, and I commend my colleague Mr. CARPER for his leadership in getting this important reform to the floor of this House.

I am one of the bill's 225 cosponsors. I am also one of those who support giving the President full line-item veto authority, and so in that sense it is true that—if it were up to me alone—we would go further than H.R. 2164 will take us today.

But I am nonetheless very proud to support this legislation as a first step in the budget reform process. It will help give our Government one of the tools it will need to grapple successfully with our budget problems. This is a balanced measure; it is a temporary measure. In my judgment, it does not unduly compromise the authority or prerogatives of this body.

The fiscal crisis we face requires new approaches; it requires a willingness to explore different policy avenues in the hope of making progress. We should not be afraid to avail ourselves of new tools and options. Clearly, our budget process is broken, and it does need fixing. Surely that cannot be denied. Why then should we not press forward and—on a trial basis—see if this rescission measure helps. It may not. If so, we have lost nothing, and the legislation will sunset at the end of the next Congress. But if it does help—and I think it will—our constituents and our posterity will thank us for the action we take in approving H.R. 2164.

Mr. Speaker, I strongly urge my colleagues to support this bill. Support it—even if you want a full line-item veto bill—because it's a first, grand step toward that more distant goal. Support it—if you don't support an outright line-item veto—because, if this works, we'll never need a line-item veto. But, either way, please support it.

Mr. CARPER and others have won us this opportunity to match our legislative actions to our words. We dare not waste it. I urge my colleagues to join with me in support of H.R. 2164.

Mr. LEHMAN of California. Mr. Speaker, I rise before my colleagues today to express my strong support for H.R. 2164, the Expedited Consideration of Proposed Rescissions Act of 1992. As a cosponsor of this legislation and a supporter of the Balanced Budget Act, I believe it is critical that we embark on a solid plan to reduce the Federal budget deficit.

It is clearly time for this legislation. We must make both the President and the Congress accountable for spending decisions. I do not think that there is anyone in this body who disagrees with the need to reduce the Federal budget deficit. However, it is difficult to make the tough decisions that will negatively affect people all over the country.

I believe implementing the Expedited Consideration of the Proposed Rescission Act of 1992 will go a long way in bringing our fiscal house in order. This legislation will strengthen accountability in the budget process while preserving the balance of power between the legislative and executive branches. If enacted, H.R. 2164 would allow the President to submit one rescission bill per appropriations bill. In it, the President could reduce unauthorized programs as much as 100 percent and authorized programs as much as 25 percent. Congress would then vote on the President's bill, without amendment. Only a majority, in either body, would be needed to defeat the proposed rescission. Members would be free to introduce alternative rescission bills as well.

Mr. Speaker, as elected public servants, we must be accountable to the people we represent here in Congress. We also must be accountable to the future generations of this country. It is simply unfair to saddle this kind of debt on our children. We must begin to reduce the Federal budget deficit now. Tough choices won't be any easier or any less painful tomorrow than they are today. It is critical that we approve H.R. 2164 and that it be enacted into law expeditiously.

I urge my colleagues to join me today in supporting this enhanced rescission measure. It is timely, it is needed, and it represents good sound policy.

Mr. ROWLAND. Mr. Speaker, in spite of record-high deficits, the Federal Government continues to spend taxpayers' dollars on such things as Belgian endive research and the mating habits of the Japanese quail. No wonder people are so angry. They believe Washington wantonly wastes their money and then imposes more burdens on them to cover the waste. It may not be accurate to blame the Federal budget deficits entirely on pork barrel spending. But nonessential spending has, in fact, played a significant part.

Earlier this session, we in the House of Representatives had an opportunity to do something truly decisive about the budget deficits by enacting the balanced budget amendment. Some critics said this would not be as much of a panacea as its proponents claimed. But it was certainly the strongest budgetary discipline proposed so far. Sadly, it failed by 10 votes.

Today, we have another opportunity to do something about wasteful spending—enact a new procedure for line-item rescissions.

As everyone here knows, rank-and-file Members of the House rarely have an opportunity to debate separate items in the budget that may fit the definition of "pork." The rules seldom permit it. This measure offers us a chance to deal openly with these budgetary items. If we believe an item is worthwhile, this bill gives us an opportunity to keep it in the budget. If an item is shown to be wasteful, we can strike it out. For the first time, pork barrel spending can be addressed in the full light of public scrutiny. This is my understanding of how our representative system of government is supposed to work.

Mr. Speaker, this bill is certainly not the ultimate answer to budget deficits. Eventually, I believe we will have to enact the balanced budget amendment. But it is a big step in the right direction. The House has too often failed to move forward on deficit reduction. Let us not fail again.

Mrs. LLOYD. Mr. Speaker, I rise today in the name of fiscal accountability and responsibility and in the strongest support for the H.R. 2164, the expedited rescission bill.

The gentleman from Delaware [Mr. CARPER] has done an outstanding job in steering this issue through this Congress and I commend him for getting it to the floor before we adjourn. This is an excellent accomplishment for the gentleman to leave us with when he leaves Congress at the end of this session. His dedication will be missed.

Mr. Speaker, H.R. 2164 is not the line-item veto, but it is a more workable proposal for fiscal responsibility for both the Congress and the President. In demanding that Congress go on record in support or disapproval of each rescission package submitted by the President, we are forced to answer for our spending habits. It prompts us to look closely at each rescission bill, make sure projects important to our own Districts are not jeopardized, and vote accordingly.

At the same time, the President, who also wants to appear fiscally conservative, is encouraged to develop fair and workable rescission packages if he is serious about getting them approved.

The time constraints put on the entire process are fair and demand efficient and timely consideration of each proposal so that what is deemed wasteful spending is eliminated quickly and what is needed is moved along without prolonged interruption. Also, if we find that expedited rescission does not work as planned, we can let it expire after next year without reauthorization action.

My colleagues, I hope that all those who support line-item veto can support expedited rescission, it is a modest reform that may prove helpful in reducing the deficit and in making the executive and legislative branch more accountable. I urge its immediate adoption. Thank you.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from South Carolina [Mr. DERRICK] that the House suspend the rules and pass the bill, H.R. 2164.

The question was taken.

Mr. STENHOLM. 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.

## CONFERENCE REPORT ON H.R. 707, FUTURES TRADING PRACTICES ACT OF 1992

Mr. DE LA GARZA. Mr. Speaker, pursuant to the rule, I call up the conference report on the bill (H.R. 707) to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices which may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service on

governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of earlier today.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] is recognized for 1 hour.

Mr. DE LA GARZA. Mr. Speaker, this legislation is a reauthorization of the Commodity Futures Trading Commission. It reauthorizes them for 2 years. It makes some positive changes in the operation. It addresses some of the concerns regarding the trading of futures, and basically this morning we had the last meeting of the conferees on the House side. All of them are in agreement. The minority is in agreement, and I suggest that this is a good conference report for us to adopt at this time.

Mr. Speaker, I am pleased to bring to the floor the conference report to accompany H.R. 707, the Futures Trading Practices Act of 1992.

More than 3 years ago public confidence in the integrity of the futures trading industry was severely shaken as the result of a highly publicized FBI sting operation at the Chicago exchanges. Although the sting operation involved a relatively small number of traders, these abuses tainted the entire industry and brought into question the effectiveness of the Federal oversight of the Commodity Futures Trading Commission [CFTC].

In the aftermath of that investigation, the House Agriculture Committee conducted its own in-depth investigation of the future trading industry.

Following that investigation, the House Agriculture Subcommittee on Conservation, Credit and Rural Development held hearings and developed legislation to address the various shortcomings in current futures trading regulation. This legislation was further refined by the full committee on Agriculture and was approved unanimously—420–0—by the House of Representatives. Unfortunately, similar legislation did not reach the Senate floor during the 101st Congress.

We renewed the drive for new regulatory reform legislation early in the 102d Congress. The House, by a vote of 395–27, again gave its approval to the committee's package in March of last year. And the Senate passed its own version by a substantial margin. Our colleagues in the House and the Senate have given us a strong, clear mandate on the need for regulatory reform.

Mr. Speaker, the thrust of both bills is to strengthen the regulatory framework in order to better deter and especially detect fraud and abuse that may be perpetrated on the floors of futures markets. However, each Chamber took a fundamentally different approach to these issues, and since November of last year the conferees have been trying to hammer out acceptable compromises.

Today I am pleased to present to our colleagues the product of our work—a strong bill that will begin to bring futures trading regulation into the modern age.

Let there be no doubt about the need for this legislation. While the futures exchanges are to be commended for generally improving their own internal oversight against fraudulent trading practices, Congress cannot rely on their good word alone. While the CFTC itself has taken important steps to help ensure that trading on exchanges is fair and orderly, the agency can take its mandate only so far.

This conference report makes amendments to the Commodity Exchange Act that will ensure that the CFTC has the authority and the mandate to more effectively regulate the futures market and better protect investors and the integrity of the futures markets.

We have tried to incorporate the best and most workable provisions in the House and Senate-passed bills. The agreement gives CFTC the powers to effectively crack down on trading fraud and forces exchanges to improve their audit-trail standards.

It also imposes other self-regulation requirements on the futures markets themselves. To ensure that the exchanges of sufficient incentives to guarantee that audit trail improvements are made, the bill provides that in any trading pit which fails to meet the enhanced requirements, the privilege of dual trading shall not be available to its brokers.

Mr. Speaker, the Senate version of this bill included provisions relating to regulatory jurisdiction over complex financial instruments. No similar provisions were included in the House bill and, as a result, the House conferees were called upon to develop positions in this area without the benefit of the normal committee process.

I want to commend our Members for the approach they took in addressing issues so important to the competitiveness—as well as the safety and soundness—of our Nation's financial system. The provisions adopted in title V of the bill will help secure the competitive position of U.S. financial institutions while maintaining sufficient safeguards to protect against systemic risk and fraud.

The conferees agreed to the Senate provision regarding Federal oversight of margin levels on stock index futures. This provision gives the Board of Governors of the Federal Reserve System authority to review the stock index futures margin levels set by exchanges and order changes if it decides those levels are inappropriate. The provision also permits the Fed to delegate this new authority to the CFTC.

Mr. Speaker, among the most difficult and complex issues that faced the conferees involved the regulatory treatment of certain types of derivative financial transactions, such as swaps and hybrid financial transactions.

The conferees settled on an interim regulatory strategy that essentially gives the CFTC the authority to exempt these types of transactions from regulation as long as they are consistent with the public interest. However, this is an area that the House Agriculture Committee will continue to study and will likely want to revisit in the next Congress.

To give us a hard start in that area, the conferees have directed that the CFTC—in corporation with the Federal Reserve Board and the Securities and Exchange Commission—conduct a comprehensive study of the markets for swap contracts and other off-exchange derivative financial products. It is our hope that such a study will fill in some of the information gaps we now have in the nature of these complex products.

Mr. Speaker, this conference report carefully balances the need to keep our Nation's futures markets competitive in the global market while ensuring that the public interest is served and protected.

The administration and particularly the Commodity Futures Trading Commission have cooperated with us in the development of this legislative package, even though we have had our differences along the way. I want to extend my personal appreciation to CFTC Chairman Wendy Gramm, the other Commissioners and their staff for their assistance.

I want to also thank my House and Senate colleagues who worked long and hard on this legislation. I particularly want to highlight the work and leadership exhibited by the gentleman from Oklahoma [Mr. ENGLISH], who chairs the Subcommittee on Conservation, Credit and Rural Development. The expertise he has developed in this issue area and the wisdom he has shown in helping us finalize the conference report are greatly appreciated. I am also grateful for the cooperation and contribution from our distinguished colleagues from the Committees on Energy and Commerce, and the Committee on Banking, Finance and Urban Affairs.

Mr. Speaker, the popular perception of futures trading in Chicago is that of high-stakes speculators. The reality, though, is futures markets provide a useful price risk management tool for literally millions of people, particularly within our Nation's agriculture-based industries. These people are individual farmers and ranchers, grain elevator operators and feedlots owners, farmer-owned cooperatives, grain companies, and other agribusiness firms.

This conference report strengthens the authority of the Commodity Futures Trading Commission so it can effectively protect the American public and ensure the integrity of the futures markets. I urge adoption of the conference report.

Mr. Speaker, I move to suspend the rules and pass the previous question on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

## U.N. CONVENTION AGAINST TORTURE

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6017) to implement for the United States the United Nations Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment.

The Clerk read as follows:

H.R. 6017

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

**SECTION 1. PURPOSE.**

It is the purpose of this Act to enact the necessary legislation to implement for the United States the United Nations Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment.

**SEC. 2. TORTURE.**

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

**"§ 2340. Definitions**

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

**"§ 2340A. Torture**

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

**"§ 2340B. Exclusive remedies**

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"Torture ..... 2340.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date the United States has become a party to the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] 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 Florida [Mr. FASCELL].

□ 2030

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

Mr. Speaker, H.R. 6017 provides the implementing legislation necessary for the United States to complete the process whereby we formally deposit with the United Nations our instruments of adherence to the U.N. Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment.

The bill before us has previously been passed by the House without dissent as part of a broader bill. The same language has also passed the other body in a separate bill. What we seek to do in bringing this measure to the floor now is to make sure that this bill will get to the President as soon as possible so that the United States will retain its full credibility as the leader of a global international effort to end the scourge of torture.

The Torture Convention itself makes torture a crime under international law as we have previously made other activities such as genocide, slavery and piracy. The bill itself amends the United States Code by inserting a new chapter on torture. The chapter permits fines and criminal penalties to be applied to torturers who are U.S. citizens or who are found within U.S. jurisdiction no matter where the torture occurred. The bill defines what is meant by torture and by severe mental pain or suffering. It also protects the applicability of State or local laws.

Mr. Speaker, the bill before us is sponsored by two outstanding legislators who are retiring this year: WILLIAM S. BROOMFIELD, ranking member on that committee and GUS YATRON who has served with distinction as chairman of the Foreign Affairs Subcommittee on Human Rights. All two of these men have contributed in a significant way to the advancement of international human rights.

I urge my colleagues to support this bill.

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

Mr. Speaker, I strongly support this bill, which would implement the U.N. Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.

I am proud to be an original cosponsor of this legislation—along with Chairman FASCELL and Congressman YATRON, chairman of the Subcommittee on Human Rights and International Organizations. Commendations are due to both Chairman FASCELL and Congressman YATRON for their commitment to this cause.

Mr. Speaker, this bill would create a criminal cause of action in U.S. courts against perpetrators of torture overseas. It would allow the United States to fully implement our responsibilities under the U.N. Convention Against Torture.

This legislation is strongly supported by the administration. I urge my colleagues to give it their support.

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

GENERAL LEAVE

Mr. FASCELL. 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 (Mr. MAZZOLI). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. 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 Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 6017.

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.

## TECHNICAL CORRECTIONS TO U.S. INFORMATION AND EDUCATIONAL EXCHANGE ACT OF 1948 AND FOREIGN SERVICE ACT OF 1980

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6047) to amend the U.S. Information and Educational Exchange Act of 1948, the Foreign Service Act of 1980, and other provisions of law to make certain changes in administrative authorities, as amended.

The Clerk read as follows:

H.R. 6047

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

**SECTION 1. CHANGES IN ADMINISTRATIVE AUTHORITIES.**

(a) RADIO FACILITIES.—Section 235 of the Foreign Relations Authorization Act Fiscal Years 1990 and 1991 (Public Law 101-246) is amended—

(1) by amending the heading of section 235 to read as follows: "CONTINUING CONTRACT AUTHORITY FOR SELECTED VOICE OF AMERICA RADIO FACILITIES"; and

(2) by inserting ", Sri Lanka, Sao Tome, and Kuwait" after "Thailand".

**SEC. 2. APPROPRIATIONS AUTHORITIES.**

Section 701 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476) is amended by adding at the end thereof the following new subsection:

"(f)(1) Subject to paragraphs (2) and (3), funds authorized to be appropriated for any account of the United States Information Agency in the Department of State and Related Agencies Appropriations Act, for the second fiscal year of any 2-year authorization cycle may be appropriated for such second fiscal year for any other account of the United States Information Agency.

"(2) Amounts appropriated for the 'Salaries and Expenses' and 'Educational and Cultural Exchange Programs' accounts may not exceed by more than 5 percent the amount specifically authorized to be appropriated for each such account for a fiscal year. No other appropriations account may exceed by more than 10 percent the amount specifically authorized to be appropriated for such account for a fiscal year.

"(3) The requirements and limitations of subsection (a) shall not apply to the appropriation of funds pursuant to this subsection.

"(4) This subsection shall cease to have effect after September 30, 1993.".

**SEC. 3. PROTECTION OF FOREIGN DIPLOMATIC MISSIONS.**

(a) AMENDMENT TO TITLE 3.—Section 202(10) of title 3, United States Code, is amended by striking ", pursuant to invitations of the United States Government" and inserting "when such officials are in the United States to conduct official business with the United States Government".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have become effective as of October 1, 1991.

**SEC. 4. FOREIGN SERVICE RETIREMENT AND DISABILITY.**

(a) CONTRIBUTIONS TO THE FUND.—Section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4050(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

"(A) the Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8334(a)(1) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amount deducted and withheld from basic salary and amounts contributed by the Department.

"(B) The Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the Department.".

(b) SPECIAL CONTRIBUTIONS.—Section 805(d) of the Foreign Service Act of 1980 (22 U.S.C. 4045) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding paragraph (1), a special contribution for past service as a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development which would have been creditable toward retirement under either section 8336(c) or 8412(d) of title 5, and for which a special contribution has not been made shall be equal to the difference between the amount actually contributed pursuant to either section 4045 or 4071e of title 22 and the amount that should have been contributed pursuant to either section 8334 or 8422 of title 5.".

(c) MANDATORY RETIREMENT.—Section 812(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4052(a)(2)) is amended in the first sentence by striking "55" and inserting "57".

(d) COMPUTATION OF ANNUITIES.—Section 806(a)(6) of the Foreign Service Act of 1980 (22 U.S.C. 4046(a)(6)) is amended by striking "section 5545(a)(2)" and inserting "section 5545(c)(2)".

**SEC. 5. BENEFITS FOR UNITED STATES HOSTAGES CAPTURED IN LEBANON.**

(a) IN GENERAL.—Section 599C(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513) is amended by adding at the end the following: "For purposes of this paragraph, any United States hostage captured in Lebanon who was paid a salary or wage in Lebanese pounds in amounts that were not adjusted to compensate for any devaluation of the Lebanese pound that occurred during such hostage's period of captivity shall not be considered to have received a salary or wage from an employer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have become effective as of the date of enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. BERMAN] 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 California [Mr. BERMAN].

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

Mr. Speaker, the bill before us, H.R. 6047, is a housekeeping bill. It makes limited technical changes to State Department, U.S. Information Agency, and AID administrative and personnel authorities. The bill does not authorize any additional funding, does not contain any substantive provisions, and does not make any policy changes.

Section 1 of the bill extends existing USIA multi-year contracting authority to three new planned VOA radio transmitter construction projects. Section 2 corrects an inadvertent omission in Public Law 102–138, the fiscal year 1992–93 Foreign Relations Authorization Act, to relax line-item authorizing constraints on appropriations. Section 3 corrects a drafting error in the same act which had led to misinterpretation of statutes providing for reimbursement of State and local governments for foreign VIP visit costs. Section 4 corrects a technical error in the Foreign Service Act of 1980, so as to allow participation of certain eligible AID employees in retirement plans. Section 5 adjusts statutes providing compensation for United States hostages in Lebanon, so as to factor in exchange rate changes.

Four of these provisions have been requested, and the fifth agreed to, by the executive branch. A provision on housing benefits for employees of international organizations, to which the minority had objected, was deleted from this bill prior to introduction. It is my understanding that the administration supports passage of the bill, and I urge my colleagues to do so as well.

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

Mr. Speaker, I support the core provisions of this bill, which affects the operations of the Department of State and the U.S. Information Agency. The basic changes contained in this bill have either been requested by the administration, or agreed to by them.

I do wish to make one clarification, however: It is my understanding that reimbursements to local governments for enhanced protection of visiting foreign officials under section 3 would apply only when the visiting officials are in the United States primarily to conduct official business with the U.S. Government. The other existing criteria must also be met—such as the city having 20 or more consulates or diplomatic facilities. If a foreign official is visiting at the invitation of the local government, then the local government should be responsible for the additional expenses.

It should be recalled that last year's conference report on the Foreign Relations Authorization Act for Fiscal Years 1992 and 1993, stated on this issue: "The conferees intend that future claims should be based on written commitments agreed to in advance."

Mr. Speaker, I wish to thank the chairman of our Committee, DANTE FASCELL, for his willingness to work out differences on these items, and to accommodate administration requests. His actions continue to reinforce the principle that partisanship and politics stop at the waters edge.

I urge passage of this bill.

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

Mr. BERMAN. 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. BERMAN] that the House suspend the rules and pass the bill, H.R. 6047, 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. BERMAN. 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 just passed.

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

There was no objection.

## RED CROSS AND RED CRESCENT RECOGNITION OF MAGEN DAVID ADOM

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 223) expressing the sense of the Congress that the International Red Cross/Red Crescent Movement should include Magen David Adom as a legitimate national society of that movement.

The Clerk read as follows:

H. CON. RES. 223

Whereas Magen David Adom performs the humanitarian functions of other national societies of the International Red Cross/Red Crescent Movement;

Whereas Magen David Adom is still not a full partner in the International Red Cross/Red Crescent Movement;

Whereas the refusal of the international community to recognize Magen David Adom indicates the intensity of hostility faced by Israel in the world community;

Whereas the recognition by the international community of the humanitarian role played by Magen David Adom would provide additional impetus to the Middle East peace process;

Whereas the American Red Cross Board of Governors has approved and begun implementation of a resolution recognizing Magen David Adom as a constituent member of the International Red Cross/Red Crescent Movement;

Whereas the American Red Cross, working with the International Committee of the Red Cross and in cooperation with Magen David Adom, has established the Holocaust and War Victims Tracing and Information Center to assist holocaust survivors in learning about the fate of loved ones; and

Whereas the American Red Cross has worked to promote cooperation between Magen David Adom and other national Red Cross/Red Crescent societies: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of the Congress that—

(1) the International Red Cross/Red Crescent Movement should include Magen David Adom as a legitimate national society of the International Red Cross/Red Crescent Movement;

(2) the Star of David should be recognized as a legitimate symbol of humanitarian concern when utilized by Magen David Adom; and

(3) all other national societies of the International Red Cross/Red Crescent Movement should take the example of the American Red Cross and support full membership of Magen David Adom in the International Red Cross/Red Crescent Movement.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ENGEL] 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 New York [Mr. ENGEL].

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

Mr. Speaker, before I begin I want to thank Chairman FASCELL, Chairman HAMILTON, and Chairman YATRON for moving so expeditiously on this resolution in the Foreign Affairs Committee. I appreciate your help and am very sorry to see Mr. FASCELL and Mr. YATRON leave Congress at the end of this year. I have thoroughly enjoyed working with you on the committee and wish you the best in your endeavors in the future.

Mr. Speaker, I introduced this resolution because I feel that it is completely unfair that the international community has not recognized Magen David Adom as a legitimate National Red Cross Red Crescent Society. It carries out the functions of any other Red Cross Red Crescent National Society, but has never been recognized by the International Committee of the Red Cross.

The obstacle to full acceptance in the Red Cross movement is basically a simple one. Magen David Adom wishes to use the red shield of David as its symbol of humanitarian concern instead of the red crescent or the red cross. However, the Geneva Conventions do not recognize the red shield of David. Originally only the red cross was recognized as an emblem to be carried by voluntary medical personnel. In 1876, the Turks announced that the red cross wounded the sensibilities of the Muslem soldier, and that they would employ a red crescent as their symbol of humanitarian concern. In 1929, the red crescent was officially recognized by the signatories of the Geneva Conventions as was the red lion and sun, the symbol utilized by the Iranians until 1980.

Despite these efforts to accommodate countries who were not comfortable employing the red cross, the international community did not take similar steps after Israel declared its independence in 1948. In fact in 1949, a diplomatic conference which had the authority to add humanitarian symbols chose not to add the red shield of David despite efforts by the Israeli Government. In 1974 another diplomatic conference was held and again Israel wished to add the red shield of David as an official symbol for Magen David Adom, but withdrew its proposal because of strong international opposition particularly from countries who refused to recognize Israel's existence.

My resolution calls on the international community to take whatever steps are necessary to resolve this unfortunate situation. At a time when Israel's neighbors are at last pursuing a peace process, recognition of Magen David Adom and its symbol, the red shield of David, would be an important confidence building measure similar to the revocation of United Nations General Assembly Resolution 3379, equating Zionism with racism.

While the international community has not recognized Magen David Adom, the American Red Cross has enthusiastically endorsed inclusion of Magen David Adom in the International Red Cross/Red Crescent movement. In 1990, the American Red Cross adopted a resolution designed to bring Magen David Adom into closer cooperation with the rest of the Red Cross/Red Crescent movement. Cooperation between the American Red Cross and Magen David Adom has included the establishment of the Holocaust and War Victims Tracing and Information Center to assist Holocaust survivors in learning about the fate of loved ones.

I drafted House Congressional Resolution 233 with the assistance of the American Red Cross and it has supported its passage. I urge my colleagues to support this resolution and to help end this injustice.

□ 2040

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

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

Mr. Speaker, this resolution expresses the sense of Congress that the International Red Cross/Red Crescent Movement should include Israel's Magen David Adom as a national society of that movement. I support the resolution and commend Congressman ENGEL for his sponsorship.

The improved atmosphere in the Middle East should be reflected in all aspects of the Arab world's relationship with Israel. Now is the time to take politics out of the international effort to provide humanitarian assistance to the needy around the world. Israel's Magen David Adom is a legitimate humanitarian relief movement and deserves to be a full partner in the International Red Cross/Red Crescent Movement.

In addition, the Star of David should be recognized as a legitimate symbol of humanitarian concern when utilized by Magen David Adom. It is only natural that a country should have the right to use the symbol of its choosing for

international humanitarian relief efforts.

The American Red Cross is to be commended for working to promote cooperation between Magen David and other national Red Cross/Red Crescent societies and for approving a resolution recognizing Magen David Adom as a member of the international humanitarian movement.

During this period of great hope and promise in the Middle East, I believe that it is time for all national societies to support full membership for Magen David Adom in the International Red Cross/Red Crescent Movement. Such a step will help show Israelis that the Arab world is sincere in seeking a working relationship with the Jewish state.

I urge my colleagues to join me in supporting this resolution.

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 223, a resolution expressing the sense of the Congress that Magen David Adom should be accorded the same status as other organizations of the International Red Cross/Red Crescent Movement. Permit me to commend our colleague on the Foreign Affairs Committee, the gentleman from New York [Mr. ENGEL] for his outstanding work on this measure.

Since its inception, Magen David Adom has performed the same humanitarian functions as every other member of the International Red Cross/Red Crescent Movement.

As some of my colleagues may know, the American Red Cross board of governors has approved and begun implementation of a resolution recognizing Magen David Adom as a constituent member of the organization.

Mr. Speaker, it is high time this fine organization is recognized internationally for all the good it has been doing. I accordingly, urge support for this measure.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. ENGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 223, the concurrent resolution now being considered.

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. ENGEL] that the House suspend the rules and agree to the concurrent resolution.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## COMMENDING PERSONS WHO ASSISTED JEWS DURING THE HOLOCAUST

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 538) commending the heroic individuals who acted to rescue Jews during the Holocaust and the Jewish Foundation for Christian Rescuers, which perpetuates the altruism and moral courage of such individuals.

The Clerk read as follows:

H. RES. 538

Whereas, during the period from 1941 to 1945, Adolph Hitler and the Nazi leadership of Germany implemented a massive genocide against the Jewish people;

Whereas the implementation of the genocide, which is referred to as the Holocaust, resulted in the tragic deaths of more than 6,000,000 Jews from throughout Europe;

Whereas Jewish men, women, and children were taken from their homes and sent to gas chambers and death camps during the Holocaust;

Whereas Jewish individuals were hunted down by the Nazi regime and its collaborators during the Holocaust;

Whereas, in regions controlled by the Nazis during the Holocaust, laws forbade an individual from assisting, hiding, or concealing knowledge of the whereabouts of a Jew;

Whereas the punishment for violating such laws was death;

Whereas courageous individuals throughout Europe ignored such laws and followed their consciences in order to save Jews from deportation and death;

Whereas, in many instances, such courageous individuals put the lives of complete strangers ahead of their own lives in the name of humanity;

Whereas many of such courageous individuals, who are heroes, are still living in the United States and elsewhere; and

Whereas the Jewish Foundation for Christian Rescuers, which is a project of the Anti-Defamation League, working in consultation with Yad Vashem, which is the Holocaust Martyrs' and Heroes' Remembrance Authority in Israel, assists approximately 1,000 of such courageous individuals who are in financial need and endeavors to inculcate in the people of the world the altruism and moral courage exemplified by such courageous individuals: Now, therefore, be it

*Resolved*, That the House of Representatives commends—

(1) the countless heroic individuals who acted at great personal risk to save Jews from death in concentration camps and gas chambers during the Holocaust for—

(A) placing humanitarian principles before personal safety; and

(B) protecting human beings from extreme acts of inhumanity in the face of the acquiescence in such acts by many others throughout the world; and

(2) the Jewish Foundation for Christian Rescuers for its inspiring and compelling work in recognizing, honoring, and encouraging the people of the world to show the altruism and moral courage of such heroic individuals.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ENGEL] 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 New York [Mr. ENGEL].

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

Mr. Speaker, I rise in support of House Resolution 538, commending those heroic individuals who acted to rescue Jews during the Holocaust and urge its immediate adoption.

Mr. Speaker, this resolution, authorized by our distinguished colleague from New York Mrs. LOWEY, recognizes the moral courage of those men and women who, at great personal risk, acted to save their Jewish friends, neighbors and, in some cases, total strangers from the Nazi terror. These individuals transcended religious or ethnic differences to rescue Jews from deportation and death. By their noble actions, they demonstrated the bond of humanity we all share. It is a tragic commentary on those horrific times that more non-Jews did not act to save the lives of their fellow man and that acts of common decency became extraordinary deeds.

The example set by those who rescued Jews from the gas chambers and concentration camps is one of altruism to which we should all aspire and which has direct relevance for our lives today. In these troubling times of ethnic cleansing in Bosnia, of clan warfare in Somalia, of religious persecution in Tibet, indeed, of racial intolerance in this country, the example of compassion for one's fellow human beings set by these men and women deserves to be emulated. Today, nearly 50 years after the Holocaust, it is important to remember that thousands of people all over the world are at risk of losing their livelihoods, if not their lives, simply for belonging to the wrong race, or religious or ethnic group.

It is fitting that the House of Representatives pay homage to these heroes of the Holocaust during the observance of the Jewish high holy days, a time for atonement of sins and affirmation of life. Let each of us atone for the sins of omission we commit when we neglect to defend the rights of those who differ with us or are different from us. Let us reaffirm our commitment to do all that we can to end ethnic, racial and religious intolerance. By doing so, we protect not just those around us but our own humanity and self-interest.

Mr. Speaker, the words of Protestant Pastor Martin Neimuller, who lived through the Holocaust, are particularly appropriate. He said: "When Hitler attacked the Jews, I was not a Jew, therefore, I was not concerned. And when Hitler attacked the Catholics, I was not a Catholic and, therefore, I was not concerned. And when Hitler attacked the unions, I was not a trade unionist and I was not concerned. Then, Hitler attacked me * * * and there was not one left to be concerned."

I commend Representative LOWEY for her efforts to bring this important

issue to our attention and to pay tribute to these truly heroic individuals. I urge unanimous adoption of the resolution.

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

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

Mr. Speaker, this resolution commends those individuals who rescued Jews during the Holocaust and highlights the excellent work of the Jewish Foundation for Christian Rescuers. I support it, and wish to praise the efforts of Congresswoman LOWEY, the principal sponsor.

When Americans hear about the Holocaust they are shocked that such a tragedy could have occurred. They ask why other human beings did not do more to rescue European Jews. Thankfully, some good men and women did stand up and do what was right.

These individual rescuers showed compassion and human decency toward others during that nightmare of Nazi persecution. In bravely saving Jews from death or deportation, they put their own lives in danger. Fortunately, many Jews were able to escape as a result. The efforts of those Christian rescuers should be known and honored as a model of human behavior under difficult circumstances.

House Resolution 538 commends the many heroic individuals who saved Jews and other victims of Nazi persecution from the concentration camps. It also calls to our attention the important work of the Jewish Foundation for Christian Rescuers in saluting the courage of these heroic individuals. The Jewish Foundation for Christian Rescuers now lends a helping hand to assist about 1,000 Christian rescuers who need assistance in their twilight years.

We must never forget the Holocaust nor those who stood up for what was right during that time. I urge my colleagues to join me in supporting this resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 2050

Mr. ENGEL. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York, Mrs. LOWEY.

Mrs. LOWEY of New York. Mr. Speaker, I rise in strong support of House Resolution 538, and I would like to extend my gratitude to Chairman FASCELL, ranking minority member BROOMFIELD, Subcommittee on Europe and the Middle East Chairman HAMILTON, and ranking member GILMAN, and the chairman and ranking minority member of the Human Rights Subcommittee, Mr. YATRON and Mr. BEREUTER. I also thank the other members of the Foreign Affairs Committee for helping to bring this resolution to the floor.

House Resolution 538 commends, for their courageous actions, those individuals who rescued Jews from the tragedy of the Holocaust. During World War II, millions stood by and did nothing as the Nazis slaughtered 6 million Jews. However, there were those who did act, at great personal risk, to save Jews who would otherwise have met their deaths in the Nazi concentration camps. House Resolution 538 honors these silent and unsung heroes who stood up in the face of one of the greatest nightmares of modern history.

The resolution also acknowledges the important work of the Jewish Foundation for Christian Rescuers. This organization has taken on the challenge of finding Holocaust rescuers around the world and providing them support in appreciation for their selfless acts on behalf of humanity. Many of the brave men and women, who put the lives of strangers before their own, now live in very difficult circumstances. The foundation seeks them out and lets them know that their courageous deeds are not forgotten.

The Acts of the rescuers fifty years ago should serve as examples to all of us and to future generations. Their courageous acts are an eloquent testimony to the capacity of the human spirit to stand up against overwhelming odds to do what is right and what is just. Many of these inspiring individuals refuse to take credit for their miraculous deeds because they feel that they did what every thinking, caring human being should have done. But, in spite of their own humility, they do deserve our thanks and appreciation.

Let me tell my colleagues about three of the heroines that this resolution honors. Dr. Tina Strobos of Larchmont, NY, rescued over 100 Jews in her native Netherlands. She was just 19 years old when she and her mother first began hiding Jews in their attic. Despite the danger to their own lives, they refused to turn away Jews trying to escape certain death at the hands of the Nazis.

Two others, Julia Schweder and her daughter, Elizabeth Schweder Szak, of Queens, NY, were rescuers in their native Hungary. They lived in an apartment building that was filled with Nazi officers. Still, they not only hid Jews in their apartment, but they also bribed officials to take food to Jews trapped in the Budapest ghetto.

There are countless stories of this type of heroism. The stories are moving and touching to all who read them. At times like these, when crimes rooted in hatred and bigotry have been on the rise in our own Nation, it is important that we all be reminded of the courageous acts of these individuals in the face of the horrors of the Holocaust. Their deeds should serve as inspiration to all of us to stand up and speak out against all forms of bigotry, intolerance, and hatred today.

There is a Hebrew saying, "He who saves one life, saves the universe." These rescuers have saved the universe many times over. I hope all of my colleagues will join me in approving this resolution.

Mr. GILMAN. Mr. Speaker, I rise in strong support of the measure now pending before us. House Resolution 538, introduced by our colleague, Congresswoman LOWEY, expresses the sense of the House of Representatives that those individuals who acted to save Jews during the dark years of the Holocaust be commended for their heroic acts. Accordingly, I am pleased to be a cosponsor of this legislation.

House Resolution 538 also lauds the Jewish Foundation for Christian Rescuers, which persists in its efforts on behalf of this noble ideal. Fifty years ago, the world was engulfed in madness. Adolf Hitler and his collaborators brought with them a unique brand of hatred that spread across the European continent. Slowly, yet methodically, laws were adopted and regulations promulgated which not only stripped Jewish citizens of their rights, but created numerous ghettos across the continent, and ultimately saw the construction of chillingly efficient concentration and death camps.

Ultimately, Mr. Speaker, more than 6 million innocent men, women, and children perished in the Holocaust. Precious few individuals were willing to risk their lives on behalf of their fellow human beings. However, even in the midst of the hell that was Europe, some men and women with the moral fortitude to act did what they could to save Jewish lives. Many of these have been honored at the Holocaust Museum in Jerusalem in the Garden of Righteous Gentiles. The Jewish Foundation for Christian Rescuers perpetuates the selflessness and courage with which these individuals acted, and is to be commended for its ongoing efforts. Accordingly, Mr. Speaker, I urge my colleagues to lend House Resolution 538 their unqualified support.

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. ENGEL] that the House suspend the rules and agree to the resolution, House Resolution 538.

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.

## CONCERNING THE SITUATION IN SOMALIA

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 370) concerning the humanitarian crisis in Somalia.

The Clerk read as follows:

H. CON. RES. 370

Whereas violence, anarchy, and starvation continue to escalate in Somalia;

Whereas there have been more than 100,000 deaths by starvation and approximately

2,000,000 people face death from starvation and disease as a result of drought, famine, and civil war;

Whereas one-fourth of all Somali children under the age of five have perished and three out of four of the remaining young children are still in danger of dying;

Whereas a 95 percent malnutrition rate and a 75 percent severe malnutrition rate currently exist in Somalia;

Whereas hundreds of thousands of Somalis are refugees or internally displaced;

Whereas a state of almost total anarchy has existed for 19 months, following the overthrow of the Siad Barre dictatorship and the subsequent civil war between various Somali clans, during which period the government has ceased to exist—no police, no army, no health ministry, no schools, and no civil administration of any kind;

Whereas Somali warring factions have disrupted international relief efforts, attacked convoys, stolen food and medical supplies, and injured and killed relief workers;

Whereas the safety of relief workers and people seeking care must be assured during periods needed to provide medical and feeding services;

Whereas Somali leaders have been unable or unwilling to exert control over those responsible for the clan, subclan, and random violence which jeopardizes relief operations;

Whereas the process of peace negotiations should not be permitted to delay resolution of the obvious security problems that prevent relief operations; and

Whereas President Bush recently welcomed the call of the Secretary-General of the United Nations for a new agenda to strengthen the ability of the United Nations to prevent, contain, and resolve conflict across the globe: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the President should—

(1) express to the United Nations Security Council the desire and the willingness of the United States to participate, consistent with applicable United States legal requirements, in the deployment of armed United Nations security guards, as authorized by the Security Council, in order to secure emergency relief activities and enable greater numbers of international and Somali organizations and people to provide relief and rehabilitation assistance;

(2) express to the United Nations Security Council that the exigency of the crisis in Somalia warrants authorization by the Security Council of the deployment of United Nations security guards even in the event that an invitation by the various warring Somali factions cannot be obtained;

(3) encourage discussion of alternative strategies for solving the political crisis in Somalia;

(4) support the United Nations-sponsored relief coordination conference for Somalia scheduled for mid-October 1992; and

(5) make every effort to ensure that adequate United States financial support exists for the United Nations to carry out its humanitarian and peacekeeping/peacemaking mission in Somalia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ENGEL] 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 New York [Mr. ENGEL].

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

Mr. Speaker, I rise in strong support of House Concurrent Resolution 370, concerning the humanitarian crisis in Somalia.

Mr. Speaker, the world, after much delay, has begun to give needed attention to the almost unbelievable suffering in Somalia. As most of us know by now, it is one of the worst humanitarian crises the world is faced with today. Brutal and senseless killings continue and the gross abuse of the most basic human rights of the Somalia population by all the warring factions is a factor of everyday life. Despite the courageous efforts of relief officials, the reality is that many people continue to die. Food is not getting to those who need it most.

Mr. Speaker, the United Nations has begun to deploy humanitarian security guards to assure relief gets to those in need. This process must be speeded up.

Mr. Speaker, the resolution urges the President to: First, express to the U.N. Security Council the desire and the willingness of the United States to participate in activities authorized by the Security Council to enable relief supplies to reach the needy; second, express to the Security Council the need for additional deployment of security guards; third, encourage discussion of alternative strategies for solving the crisis, and; fourth, make every effort to ensure adequate U.S. support exists for the efforts of the United Nations.

Mr. Speaker, throughout the long years of the cold war, Somalia and the rest of the Horn of Africa were of strategic importance to the United States. I believe we have a specific moral obligation to assist the people of Somalia in this time of need. We can do this best by working through the United Nations. United Nations Secretary General Boutrous-Ghali, his special envoy for Somalia, Ambassador Mohammed Sahnoun, and the relief agencies working in Somalia need our support.

Mr. Speaker, every day we open the newspaper and we see the dying women, the dying children, and the dying men, and it certainly is something that makes our hearts break. The world cannot continue to sit idly by and watch these poor people starve to death.

Mr. Speaker, this resolution expresses the willingness of the United States to support their efforts. I urge the adoption of the resolution.

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

Mr. Speaker, I support this resolution concerning the ongoing tragedy in Somalia. I commend Congressman JOHN LEWIS for sponsoring this timely legislation to help end the suffering of the Somali people.

Two terrible disasters face the international community today. While the horrors of Bosnia dominate the news, the developments in Somalia could take the lives of far more innocent people.

The horrible events unfolding in Somalia have shocked the world. More than 100,000 innocent human beings have already starved, and 2 million more face the same fate. Malnutrition is nearly universal, and hundreds of thousands of Somalis have fled the country or been displaced.

Since the overthrow of the previous regime, only anarchy has ruled in Somalia. Fighting among the various clans has created chaos. The violence has disrupted international relief efforts and compounded the problems caused by drought.

The United States Government has donated about $148 million in assistance to Somalia over the 2 years. President Bush has supported United States and international assistance efforts. Despite the efforts of the international community, still more must be done.

This resolution urges the President to communicate to the U.N. Security Council that the United States would consider participating in the deployment of armed U.N. guards to secure relief shipments. It also encourages further discussion of additional strategies to address the crisis in Somalia, including a high-level conference to coordinate relief efforts. In addition, it calls upon the administration to identify adequate U.S. financial support for U.N. activities.

When historians write the story of how America responded to the challenges of building the new world order, I want them to say that Americans led the way in extending a helping hand to the starving people of Somalia. I urge my colleagues to support this resolution.

□ 2100

Mr. ENGEL. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from New York [Mr. ENGEL] for yielding me this time and for his support on this resolution.

I thank the gentleman from Florida [Mr. FASCELL], the chairman of the full committee, and the ranking member, the gentleman from Michigan [Mr. BROOMFIELD] for all his help and his support in cosponsoring this resolution.

Mr. Speaker, like so many others, I am deeply troubled by the crisis in Somalia. Every day thousands of Somalis are dying of starvation. Dozens of clans are fighting each other. Chaos rules the country.

The situation in Somalia is unlike anything this world has known. There is no government. There is no army or police. Starving refugees roam the country seeking safe haven and food.

It is time for the eyes of the world to turn to Somalia. We must seek solutions. We must find a way to end the crisis. There are no easy answers, but we must get to the starving. We cannot stand by while thousands of people die.

The United Nations is making some progress in Somalia. In some villages, the elders are once again in control. The United States is sending food in by air, by land, and by sea; but we must do more, and we can do more. We must turn our hearts and our minds to solve this problem. We must use and explore new methods, new ways, new means, new techniques in negotiations. We must provide leadership and financial support to the United Nations to solve this problem.

This resolution, House Concurrent Resolution 370, calls on the United Nations to attempt to find new solutions to this crisis. We must devote our energy and our resources to restoring to this country a sense of order, a sense of peace. We must find peace, and I urge all my colleagues to support this resolution.

Mr. ENGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I rise in support of this resolution which draws attention to the tragedy that is occurring in Somalia.

Earlier this evening, I spoke in support of a resolution honoring individuals who risked their lives to save Jews during the Holocaust. During World War II, millions stood by and did nothing as the Nazis slaughtered 6 million Jews. However, the individuals that my resolution honors did act, and their actions saved many lives.

Today, in Somalia, the famine and decades of civil war raging there have taken a deadly toll. Some 4.5 million people face death by starvation and a sixth of the population of 7 million are refugees because of the brutal violence. AID workers have testified that at least one person is starving to death every minute while heavily armed fighters from rival militias confiscate all the food they can.

Tragically, the world's attention has been diverted by other world events from this catastrophe. And like the millions around the world who did nothing to end the Holocaust, many in the international community are content to "hear no evil—see no evil" when it comes to Somalia.

I commend all who have taken an active part in moving this resolution forward, and I urge my colleagues to prove that the lesson of the Holocaust rescuers still teaches us today.

Mr. GILMAN. Mr. Speaker, I want to thank the chairman, the gentleman from Florida [Mr. FASCELL] and the ranking minority member, Mr. BROOMFIELD, for bringing House Concurrent Resolution 370 to the floor at this appropriate time. In addition, I want to thank the chairman of the Subcommittee on Africa, the distinguished gentleman from California, [Mr. DYMALLY] and the ranking minority member, the distinguished gentleman from Indiana, [Mr. BURTON] for supporting House Concurrent Resolution 370. Their leadership in attempting to resolve the crisis in Somalia and end the bloodbath that has engulfed Mogadishu, has been crucial to the development of the strong bipartisan support for ending the troubles there.

The tragedy facing Somalia continues to be beyond our hearts and minds to grasp. It is estimated that at least 5,000 people are succumbing to hunger and related diseases every day. The problem is not a lack of food but attacks on relief convoys delivering the food in country.

The administration must be commended for its creative approach to ending the fighting by continuing to support meal distribution centers in areas where there is armed conflict. The U.S. Agency for International Development informs the combatants, however, that if they want development assistance such as wells, fertilizers, and so forth, they must end the fighting.

House Concurrent Resolution 370 supports the deployment of armed U.N. security forces to secure emergency relief activities. It also calls for these forces to be dispatched even if the warring factions do not agree to it.

Accordingly, I support House Concurrent Resolution 370 and urge my colleagues to vote for the bill.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise to express the strongest support possible for House Concurrent Resolution 370, a resolution calling for action to respond to the humanitarian crisis in Somalia. But I also want to ask, "How could this tragedy have come to pass?"

The tragedy befalling the people of Somalia mocks virtually all attempts to describe it. Pictures, here, definitely speak louder than words. Today's Washington Post carried such a photo. It showed a desperate mother bathing her rail-thin daughter as they patiently awaited a ration that might extend their lives for yet another day. A picture so grim can only make one wonder why there is other news in the paper.

The accompanying story, which one could barely read after absorbing the shock of that photo, chronicled a deteriorating situation in Somalia. Since we last revisited this crisis in August, with a resolution urging humanitarian relief, the famine, drought, and civil war have been compounded by emerging epidemics of measles, tuberculosis, and hepatitis. These diseases may now be killing more people than the famine itself.

Permit me to try to describe what havoc the famine alone has wreaked. I'll not use my own words, because I couldn't begin to assay the dimensions of the worst humanitarian crisis facing humanity this decade. I will refer instead to a moving and sobering report. "A Journey to Hell," prepared by Jeffrey Clark. Mr. Clark, a former professional staff member of the Select Committee on Hunger, now serves as a consultant to the United States Committee on Refugees—one of the many private voluntary agencies seeking to plug the relief gap created by the breakdown of Somali society and the failure of governmental relief efforts.

I quote from Mr. Clark's report on his recent visit to Somalia which shows there is now:

> Death by starvation of untold hundreds of thousands of Somalis.
>
> A 95 percent malnutrition rate * * * with some 75 percent severe malnutrition believed to exist. There is no precedent of such suffering for a large population in my experience.
>
> A total absence of even rudimentary health care.
>
> Rampant epidemics of the diseases associated with malnutrition, plus malaria and typhoid.
>
> Food in such short supply that it is the currency of the land and thus the spark of much of the violence.

Let me then say a word about how this tragedy unfolded. In analyzing the roots of the tragedy, Mr. Clark upbraids "the stewards of the international humanitarian assistance system that have allowed this horrible situation to deteriorate into a monumental catastrophe of unparalleled dimensions and the toll of suffering to exceed comprehension, let alone forgiveness."

His critique of the breakdown of international relief recognizes the internal causes of the crisis: famine, drought, and lawlessness. But he reserves his most withering criticism for the agencies of the United Nations: "They have failed tragically to meet even their basic responsibilities. The sad U.N. preoccupation with protocol and turf again prevented effective coordination and useful action." These are Mr. Clark's words but they have been echoed by the U.N.'s own officials, including Ambassador Sahnoun, the Secretary General's own special representative in Somalia.

While the main responsibility for Somali suffering lies within and with the international community, we should not absolve ourselves. The United States has dallied in paying assessments to the United Nations, shirked its leadership as one of five permanent members of the Security Council, and delayed in leading the effort to pre-position food and to use our excess military logistical capacity for relief.

True, the United States has done more than most nations. We have supported private relief and we have mounted a military airlift of food and medicine to help stop the suffering. Congress has paid close attention to the Horn of Africa and passed measures to relieve and to prevent suffering in that region.

But our Government has left the main responsibility for famine prevention and relief to the brave and tireless workers employed by such nongovernmental institutions as the International Red Cross. Consequently, we have missed opportunities to prevent needless human suffering. We are still all too prone to fight a cold war now ended with military aid still in excess. Even with tight budgets, we can convert security aid into food aid and humanitarian relief. The precise authority to do that is provided in the Horn of Africa Recovery and Food Security Act, which I sponsored with Mr. WHEAT and Mr. BEREUTER.

The resolution before us today calls on our Government to move full speed ahead in supporting the secure delivery of humanitarian aid. It supports U.S. participation in the U.N. security force now being deployed to ensure that food aid reaches starving people. It endorses adequate relief aid to meet the critical

survey needs of millions of people standing on the precipice of extinction.

In conclusion, I can only hope that this expression of solidarity with the people of Somalia will help to push our Government into high gear. We can't afford to wait another day.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. ENGEL] that the House suspend the rules and agree to the concurrent resolution, House Congressional Resolutions 370.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ENGEL. 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 House Congressional Resolution 370, the concurrent resolution just agreed to.

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

There was no objection.

## U.S. PARTICIPATION IN A CASCADIA CORRIDOR COMMISSION

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6077) concerning U.S. participation in a Cascadia Corridor commission.

The Clerk read as follows:

H.R. 6077

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

**SECTION 1. CASCADIA CORRIDOR COMMISSION.**

The United States should continue negotiations with the Government of Canada and State, provincial, and local governments in the urbanized Cascadia corridor along Interstate 5/Highway 99 from Vancouver, British Columbia (including Vancouver Island), to Eugene, Oregon, in order to establish a commission to—

(1) act as a forum to coordinate consideration of regional issues in the Cascadia area by representatives from the private sector, nonprofit organizations, and local, State, provincial, regional, and national governments;

(2) develop a strategy for environmentally sound economic development in the Cascadia region which includes consideration of environmental issues, urban development, transportation, communications, and education; and

(3) submit a plan, developed by the commission and incorporating such strategy, to the Congress, the Canadian Parliament, the legislature of British Columbia, and the State legislatures of Oregon and Washington.

**SEC. 2. ADVISORY COMMISSION.**

The commission should be authorized to function only in an advisory capacity and should have no authority concerning any local, State, or Federal agency or government.

**SEC. 3. COMPOSITION OF UNITED STATES DELEGATION.**

If the United States and Canada conclude an agreement to establish such a commission concerning the Cascadia region, the United States delegation to the commission should include—

(1) 1 member appointed by the President, who should be a nonvoting member;

(2) a Washington State delegation; and

(3) an Oregon delegation.

**SEC. 4. COST-SHARING AMONG U.S. DELEGATION.**

Upon appointment of a United States delegation to such a commission, the United States delegation should decide the cost-sharing arrangements among the Federal, State, and local participants of the delegation. Federal Government contributions of the United States may not exceed one-fourth of the total budget of the commission for any fiscal year.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for "International Commissions" for the Department of State for purposes of a commission pursuant to this Act $200,000 for fiscal year 1993 and $200,000 for fiscal year 1994. Amounts authorized to be appropriated by this section are authorized to remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ENGEL] 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 New York [Mr. ENGEL].

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

Mr. Speaker, I rise in support of H.R. 6077, concerning U.S. participation in a Cascadia Corridor commission. This legislation urges the President to continue ongoing negotiation with the Government of Canada to establish a Cascadia Corridor commission. The purpose of this commission is to address environmentally sound development and other regional issues in the Cascadia Corridor from Vancouver, British Columbia to Eugene, Oregon. The commission, which would serve in an advisory capacity to Federal, State, and local governments, would submit a development strategy for consideration by the concerned Federal and State Governments.

Mr. Speaker, it is expected that this commission will have little cost to the Federal Government. The legislation provides that the U.S. delegation to the commission would negotiatie cost-sharing arrangements between the Federal, State, and local participants. At no time would the Federal Government bear more than one-quarter of the costs of the commission. The bill would authorize a ceiling of only $200,000 for each fiscal years 1993 and 1994 for this purpose.

I urge the Members to support this legislation.

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

Mr. Speaker, this bill authorize U.S. participation in the Cascadia Corridor commission, which is to propose an environmentally sound economic development plan for our Pacific Northwest and the Canadian province of British Columbia. The plan will be submitted to Congress, the Canadian Parliament, the legislature of British Columbia, and the State legislatures of Oregon and Washington.

This approach will help coordinate growth stategies on this region in order to reconcile economic and environmental objectives. I wish to congratulate Congressman JOHN MILLER for his leadership on this bill, and for the hard work he has consistently performed on behalf of his constituents and his region. The House and our committee will certainly miss his energy, his wisdom and his dedication next year.

Mr. Speaker, I urge passage of this bill.

Mr. BROOMFIELD. Mr. Speaker, I yield the balance of my time to the gentleman from Washington [Mr. MILLER], the sponsor of this legislation.

Mr. MILLER of Washington. Mr. Speaker, I thank my colleague, the ranking member, the gentleman from Michigan, for yielding me this time, and I thank him for his kind words. It has been a pleasure to serve with him on the committee.

I want to thank all my colleagues on the Foreign Affairs Committee for helping to bring this bill to the floor, particularly Chairman FASCELL, Ranking Member BROOMFIELD and Congressman BERMAN.

This bill is not only sponsored by myself, it is sponsored by the whole Washington State delegation and by the gentleman from Oregon [Mr. WYDEN].

The concept that this bill advocates is supported by the administration.

Let me just briefly describe for my colleagues the why's and wherefore's of this bill.

The region west of the Cascade Mountains in the Pacific Northwest is known as Cascadia. There is a corridor within that region running from Vancouver, BC, down to Eugene, OR. It is an area of incredible growth. The demographers are predicting that in the next several decades the population growth in that corridor percentage wise may be the greatest on the North American Continent. That comes about in part because of the desirable environment of the area, in part because of the Canadian-American Free-Trade Agreement and other reasons.

Just to give you one statistic, in 1986 the vehicular border crossings at Blaine, WA, in this corridor across the Canadian-American border were 5 million, approximately 5 million. That was 1986.

□ 2110

In 1992, this year, it is 11 million, and the Customs Office tells me that in the year 2000 they are projecting 28 million. That gives my colleagues an idea of the growth.

However, Mr. Speaker, with that growth there can be tremendous challenge if we are going to preserve and sustain the environment of the Cascadia region. That is what this commission is about.

What we have here is a bill that puts the Federal Government behind setting up an advisory body that would bring Federal, State, provincial, local, officials to the table in a forum to discuss the environmental, transportation, economic challenges in the Cascadia Corridor region and allow them to together propose strategies to meet these challenges.

Mr. Speaker, I thank my colleagues for their help on this, and I ask for a favorable vote.

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

Mr. ENGEL. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. ENGEL] that the House suspend the rules and pass the bill, H.R. 6077.

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. ENGEL. 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 just passed.

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

There was no objection.

## EXPRESSING SENSE OF CONGRESS THAT U.S. SHOULD DEVELOP NATIONAL STRATEGY IMPLEMENTING EARTH SUMMIT AGREEMENTS

Mr. ENGEL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 353) expressing the sense of the Congress that the United States should assume a strong leadership role in implementing the decisions made at the Earth summit by developing a national strategy to implement Agenda 21 and other Earth summit agreements through domestic policy and foreign policy, by cooperating with all countries to identify and initiate further agreements to protect the global environment, and by supporting and participating in a high-level U.N. Sustainable Development Commission, as amended.

The Clerk read as follows:

H. CON. RES. 353

Whereas the United Nations Conference on Environment and Development (hereinafter in this preamble referred to as "UNCED"), known as the Earth Summit, assembled in June of 1992 in Rio de Janeiro, Brazil, the largest summit of heads of state in history and outlined a comprehensive action plan for environmentally sustainable development, known as Agenda 21;

Whereas the United States has a strong national interest in the environmental sustainability of global economic development, and many pressing environmental and economic problems are inherently transboundary and not susceptible to resolution by the actions of any single nation acting alone;

Whereas Agenda 21, a plan of national and international actions to integrate environment and development, negotiated and adopted by the United States and 177 other countries, offers a significant starting point for continuing progress in avoiding environmental degradation and social and economic disintegration in the 21st century;

Whereas the role of the United States, as a major economic force and a country that has long been in the forefront of environmental protection activities nationally and internationally, should be one of leadership and positive action in the implementation process of Agenda 21 and all decisions of UNCED;

Whereas Agenda 21 urges all governments to adopt national strategies for sustainable development;

Whereas Agenda 21 urges all countries to "make significant progress" in incorporating environmental costs into economic decisions, to undertake research or sustainable production methods and consumption patterns, and to undertake other actions to make their economies more environmentally sustainable;

Whereas Agenda 21 calls for a "supportive international climate for achieving environment and development goals," by "providing adequate financial resources to developing countries and dealing with international debt," and calls for "the reallocation of resources presently committed to military purposes" to support United States policies and the efforts of developing countries to implement Agenda 21;

Whereas UNCED recommended that high-level United Nations Commission on Sustainable Development (hereinafter in this preamble referred to as the "Commission") be established by the 47th United Nations General Assembly to provide a vital forum in which the member states of the United Nations may review progress made by considering reports from national governments, international organizations, and nongovernmental organizations;

Whereas the United States was an active and positive participant in UNCED negotiations regarding the Commission, and will play a major role in the decisions of the 47th United Nations General Assembly regarding the specific modalities and effectiveness of the Commission;

Whereas the agreements adopted at UNCED are milestones toward the achievement of environmentally sustainable economic development and for holding governments accountable for progress toward integrating environment and development;

Whereas many opportunities for agreements concerning more extensive actions on critical issues remained unresolved at UNCED and will require further attention by the nations of the world; and

Whereas the ultimate success of achieving sustainable development and a healthy environment at the national and international levels depends upon actions taken at the State and local community levels, and on actions by schools, public offices, businesses, and citizens: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of the Congress that—

(1) effective follow-up to achieve the many goals of the agreements reached at the United Nations Conference on Environment and Development (hereinafter in this resolution referred to as "UNCED") will depend on the following actions by the President and the United States Government:

(a) The United States should adopt a national strategy for environmentally sustainable development, based on an extensive process of nationwide consultations with all interested organizations and individuals, including State and local governments, nongovernmental organization, businesses, and labor groups.

(B) The United States Government should encourage and facilitate, at all levels of community and sectors of society, appropriate means for adopting individual Agenda 21 plans of action, including the establishment of local, county, State, business, and other boards and commissions for achieving sustainable development. Each member of the Congress should help initiate this process within their States or districts.

(C) The President should establish an effective mechanism to plan, initiate, and coordinate United States policy for implementing Agenda 21. Responsibility should be vested in a duly constituted office, headed by an appropriate high level official, and the necessary staff support structure should be provided.

(D) Policies should be formulated for foreign policy and foreign assistance in order to help developing countries, and for domestic actions in order to assure appropriate action by the United States to implement Agenda 21;

(2) in order to contribute to a transition to a sustainable United States economy, the research and policy initiatives urged in Agenda 21 should be pursued, including research on sustainable consumption and production patterns, creation of a policy framework for sustainable consumption patterns, identification of a strategy to eliminate or reduce subsidies for unsustainable natural resource exploitation, and to improve pricing policies;

(3) the Congress should adopt a plan to reallocate an appropriate amount of savings from reduced defense spending in order to achieve its goals of global environmental protection and sustainable development over the next decade;

(4) the President should urge and actively participate in new and existing multilateral efforts aimed at creating a more favorable international economic climate for developing countries to practice sustainable *development, and such* efforts should include international consultations regarding reduction in developing country debt linked with environmental policy reforms, and increased loans and concessional assistance upon de-

velopment and implementation of national sustainable development strategies in developing countries;

(5) the United States should actively support, at the 47th United Nations General Assembly, the effective establishment of a high-level United Nations Commission on Sustainable Development (hereinafter in this resolution referred to as the "Commission"), including the establishment of provisions for meaningful participation by organizations of the United Nations system, international financial institutions, and other relevant intergovernmental organizations and nongovernmental organizations recommended by UNCED;

(6) the President should affirm strong United States commitment to the Commission by appointing a high-level representative from the United States to the Commission, and by encouraging the United Nations Secretary General to appoint an Under Secretary General for Sustainable Development to coordinate the implementation of Agenda 21 in the United Nations system and *to* head the secretariat support structure for the Commission;

(7) the President should submit a national report for the Commission on activities the United States has undertaken to implement Agenda 21, both domestically and internationally, on progress made toward fulfilling other commitments undertaken at UNCED, and on other environmental and developmental issues that the United States finds relevant, and should strongly encourage all United Nations members to submit national reports;

(8) the United States should *encourage the Commission* to call for periodic international meetings to continue the process toward developing and advancing international agreement to facilitate sustainable economic development for the protection of the global environment and the promotion of human dignity of current and future generations; and

(9) the President should submit an annual report to the Congress on the steps taken by the United States to implement Agenda 21 and the recommendations made by this *resolution, and* should make information regarding such steps available to members of the Congress upon their request.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ENGEL] 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 New York [Mr. ENGEL].

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

Mr. Speaker, I rise in support of House Concurrent Resolution 353, expressing the sense of the Congress that the United States should assume a strong leadership role in implementing the decisions made at the Earth summit in Rio de Janeiro by developing a national strategy to implement Agenda 21 and other Earth summit agreements through domestic policy and foreign policy, by cooperating with all countries to identify and initiate further agreements to protect the global environment, and by supporting and participating in a high-level U.N. Sustainable Development Commission, as amended.

The Brazil meeting of the U.N. Conference on Environment and Development [UNCED], in June, marked global concurrence on the need to better integrate environmental and developmental activities, and presented a plan to achieve it. Some 175 countries gave their approval to the comprehensive program of action known as Agenda 21. The task now before nations is to implement the precepts of that document, which will be a demanding, yet necessary, endeavor if the world's development is to be viable and endure. Each nation must do its part. The resolution now before the House, House Concurrent Resolution 353, as amended, is an effort to get the U.S. process in gear.

At the outset I would like to commend my distinguished colleague, the chief sponsor of the resolution, the Honorable NANCY PELOSI for her leadership and interest in shaping this very significant measure. It has been 4 months since the Rio summit, and it is very important that Congress show its commitment to effective implementation of the UNCED initiatives.

I also wish to commend the chairman and ranking minority member of the Subcommittee on Human Rights and International Organizations, the Honorables GUS YATRON, and DOUG BEREUTER for their support in expediting consideration of this measure, and their continuing efforts on behalf of environment and development.

The text of House Concurrent Resolution 353, as amended, highlights congressional sentiments on behalf of achieving the UNCED objective of environmentally sustainable development. It recognizes that the ultimate success of UNCED is dependent on actions taken at all levels: international, national, state, local, public, private, and individual. Specifically, it calls for the following:

A national strategy, based on countrywide consultations with a broad diversity of interests, and with efforts to engage all sectors, and levels in the process.

A Presidential plan for coordinating U.S. policy to implement agenda 21;

Formulation of domestic and foreign policies, including foreign aid, to implement agenda 21;

Research on sustainable consumption and production patterns, creation of an appropriate policy framework, and a strategy to cut subsidies which promote degradation of the resource base;

A Congressional plan to reallocate defense savings to environmentally sustainable development;

Active U.S. support at the U.N. General Assembly for the Sustainable Development Commission, including provisions for meaningful participation by other U.N. entities, international financial institutions, and NGO's;

Presidential affirmation of a strong U.S. commitment to the Commission by appointing a high-level American to that body, and by encouraging the U.N. Secretary General to appoint an Under Secretary General for Sustainable Development to coordinate and implement Agenda 21;

Submission of a national report, by the President, on U.S. domestic and international activities, to implement agenda 21, fulfill other UNCED initiatives, and encourage other nations to also submit national reports; and

An annual report to Congress on measures to implement agenda 21, and the recommendations of this resolution.

Mr. Speaker, I urge the adoption of House Concurrent Resolution 353, as amended.

Mr. Speaker, I yield such time as she may consume to the sponsor of the resolution, the gentlewoman from California [Ms. PELOSI], to explain the resolution.

Ms. PELOSI. Mr. Speaker, Mr. FASCELL, Mr. BROOMFIELD, Mr. YATRON, Mr. BEREUTER, and members of the Foreign Affairs Committee, are to be commended for their efforts to expedite consideration of this legislation.

The Earth Summit Environmental Leadership Act, presents us with the opportunity to follow up on the important work of the Earth summit to develop its blueprint—agenda 21—for global environmental action.

House Concurrent Resolution 353 outlines a comprehensive national strategy for sustainable development, in accordance with the principles of agenda 21, to be coordinated under the leadership of a specific office and the direction of a high-level government official.

The resolution also urges the United States to identify and initiate further agreements to protect the global environment and to support the creation of a high-level U.N. Sustainable Development Commission headed by an Undersecretary General. The President is urged to report to Congress on the progress of these steps.

House Concurrent Resolution 353 is supported by the administration. I have been in contact with the appropriate offices of the State Department and have incorporated their suggestions in the resolution. The 71 cosponsors of this measure include one-half the members of the Foreign Affairs Committee and all of the House delegates to the Earth summit. It is also supported by the major United States' nongovernmental organizations.

The Earth summit presented world leaders with an opportunity that should not be lost. We must now embark on a new course that will sustain our planet and its resources for the benefit of future generations. This resolution calls on the United States to assert its leadership to achieve this goal.

I urge my colleagues to support this resolution. Thank you, again, to Mem-

bers of the Foreign Affairs Committee, for their recognition of the importance and timeliness of this resolution.

We must make the promise of Rio a reality.

Mr. ENGEL. 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 support this resolution, which expresses the sense of Congress with respect to implementing the decisions of the recent U.N. Conference on Environment and Development.

I wish to commend the gentlelady from California, Congresswoman PELOSI, for her sponsorship of the resolution.

Mr. Speaker, despite all the criticism of administration policy toward the Earth summit, the fact is that the U.S. Government made a very constructive contribution in Rio and in the talks that led up to the meeting in Rio.

Largely as a result, the conference adopted four major items: The Rio Declaration on Environment and Development; the lengthy action plan referred to as Agenda 21; the U.N. Framework Convention on Climate Change; and nonbinding but authoritative principles for the management and conservation of forest resources.

In addition, the conference adopted the U.N. Biodiversity Convention, which the administration decided not to join at this time. This was due to concerns about intellectual property and also the decisionmaking and funding mechanism.

The administration has already made a good beginning in implementing the results of the conference:

During the talks on climate, the administration pledged $75 million for related projects in developing countries including the development of national plans;

The President announced that the United States would have our own national plan on climate ready by the end of the year in order to start international consultations in January 1993.

The President announced a forests-for-the-future initiative to double worldwide forestry assistance, beginning with a $150 million additional U.S. contribution.

The administration is preparing for consideration by the U.N. General Assembly of establishment of the Sustainable Development Commission called for in Rio, and is working on an interagency basis to formulate further plans to implement the other recommendations of the conference.

The good start made by the administration shows that the United States is serious about international cooperation to address global environmental problems. The resolution before us calls for similar measures to implement the recommendations of the Rio conference.

The State Department supports the provisions of this resolution, which are fully consistent with U.S. policy toward implementing the results of the Earth summit. Ms. PELOSI should be further commended for her cooperative attitude on the issues that were raised by the Department at an earlier stage in the consideration of this resolution.

Mr. Speaker, I was appointed to the Earth summit observer delegation. Although I did not actually attend the Conference, I followed the proceedings in other ways.

Recently I had the opportunity to contribute an article on these matters to a magazine called Michigan International Lawyer. I include this summary of my views for inclusion in the RECORD at the conclusion of my remarks.

"IT STARTED IN RIO": INTERNATIONAL ENVIRONMENTAL LAW AFTER THE EARTH SUMMIT

By the Honorable William S. Broomfield

The United Nations Conference on Environment and Development (UNCED) or "Earth Summit," which took place in Rio de Janeiro during June, will undoubtedly be remembered as a milestone in international environmental law and politics. Whether or not the agreements reached in Rio mark the trail toward real solutions for global environmental problems, the negotiations will serve as a benchmark for future international relations on the subject of the environment.

As will be familiar to anyone who followed press reports of the conference, the Earth Summit was characterized by a variety of disagreements among the industrialized countries (the "North"), and between them and the poorer countries (the "South"), concerning responsibility for global environmental problems and how to address them. Despite traditional U.S. leadership in the environmental area, the governments of many other countries—not to mention environmental activists and the press—were highly critical of U.S. policies and positions.

UNCED had an ambitious agenda, including several major documents discussed below. Throughout these complex negotiations, however, a small group of issues were at the core of discussion: whether the advanced industrial countries should adopt specific "targets and timetables" for reducing pollution, especially emissions of carbon dioxide ($CO_2$) and other gases that contribute to potential global climate warming; whether developing countries should expect "new and additional" financial resources from the North as the price of taking action for the environment; and whether the South should obtain technology on "preferential and noncommercial" terms.

Thus, the Earth Summit came to be at least as much about development as environment. Apart from steps by the industrialized countries to reduce greenhouse gas (GHG) emissions, the primary issues concerned demands by the South for money and technology. How is it that these issues, which are related to earlier calls for a "New International Economic Order," came to the forefront at UNCED?

The pattern was actually set when concern over the discovery of the hole in the stratospheric ozone over the Antarctic in the late 1970's quickly led to a series of international actions. After it was discovered that depletion of stratospheric ozone is primarily caused by chlorofluorocarbons (CFC's) and certain other industrial chemicals, the international community reacted by adopting the Vienna Convention for the Protection of the Ozone Layer and then successive agreements, including the Montreal Protocol on Substances that Deplete the Ozone Layer, which provide for a phaseout of CFC's and other ozone-depleting chemicals.

It soon became obvious to the poorer countries that they had new leverage over the North as a result of emerging concerns about the global environment. While production and use of CFC's and other ozone-destroying chemicals overwhelmingly take place in Industrialized nations, a solution to this problem has to be worldwide. Not only is it necessary to phase out CFC's and similar chemicals everywhere, but economic growth in the developing countries would otherwise actually lead to a proliferation of these chemicals. The nations of the South realized that they could demand compensation as the price of agreeing to cooperate in protecting the global environment. In the case of the Montreal Protocol, they were successfully able to demand that the richer countries make good the incremental costs of substituting for CFC's and similar substances as well as the refrigeration and other equipment in which they are used.

Aside from the fact that 1992 is the twentieth anniversary year of the Stockholm Conference on the Human Environment, the idea of holding a new world conference was given impetus by increasing world concern about several other environmental problems of global significance. These included potential climate change (global warming) as a result of increasing GHG levels; the loss of biological diversity ("biodiversity") around the world, especially as a result of deforestation and other threats to wildlife habitat; and a general loss of productive potential, especially in the South, resulting from the expansion of human settlements and overexploitation of renewable resources such as forests and soils.

The outcome of the various negotiations which culminated in Rio was not wholly satisfactory to any party of interest. While public failure was averted, most participants went away at least partially disappointed. Nevertheless, the renewed attention to international environmental concerns that resulted from the conference and the acceptance of certain principals and commitments there may contribute to the resolution of global environmental issues in the future. To understand the results of the conference, however, it is necessary to look at the five key items under discussion:

(1) CONFERENCE DECLARATION

The parties agreed to a broad set of principles known as the Rio Declaration on Environment and Development. The North, including the United States, had sought a more concise and inspirational document, or "Earth Charter", that would help raise public consciousness about the importance of environmental protection. But the South insisted on recognition of several points, including national sovereignty over natural resources and a "right to development." Ultimately, the North agreed, and even accepted an acknowledgment of responsibility for current global environmental problems. Even so, the most the South would agree to in terms of environmental protection is that all nations are "common but differentiated responsibilities."

(2) AGENDA 21

This several-hundred page document is supposed to serve as a guide for action into

the 21st century. In addition to numerous chapters on specific issues, it also contains key language on financial commitments and new institutions. Implementing the various actions contained in Agenda 21 would take $125 billion or more in external support, but clearly many if not most of them cannot be addressed without major private sector involvement. About half the necessary funds would be made available if the richer countries met the target of 0.7% of gross national product previously established by the U.N. General Assembly for foreign aid; the rest would have to come from additional contributions. The United States went along with these statements, but only after noting that it had never agreed to the 0.7% level in the first place and that the new and additional resources required for the remainder would have to include voluntary government contributions as well as private efforts.

On institutions, the United States was largely successful in preventing duplication of effort by obtaining agreement to assign oversight responsibilities to a new committee of the existing U.N. Economic and Social Council (ECOSOC). One of the more interesting developments at UNCED, however, was the creation of a Sustainable Development Commission, which will provide a forum for debate on related issues, with input from non-governmental organizations (NGO's). Due to concerns of the richer countries, financial administration of additional environmental projects will be through an expanded Global Environment Facility (GEF) in the World Bank, for which new management arrangements will be worked out.

(3) CLIMATE CHANGE

Prior to the Rio meeting itself, the best-known item under discussion was the U.N. Framework Convention on Climate Change. The U.S. Administration was roundly criticized by other industrialized countries, particularly in the European Community, as well as environmentalists, for its refusal to agree to targets and timetables for the reduction of GHG emissions, particularly the proposed stabilization of $CO_2$ emissions at 1990 levels by the year 2000. The Administration was also criticized by developing countries, as well as others, for its reluctance to make commitments on providing new and additional financial resources or transferring technology.

The Bush Administration was ultimately successful in preventing inclusion of a specific pledge on $CO_2$ emissions, although it did agree to the goal of reducing overall GHG emissions to 1990 levels. The Administration succeeded in obtaining provisions requiring submission of national plans describing measures to respond to potential global climate change. The Administration also agreed to provide new financial resources, but on a voluntary basis; at the last meeting of the International Negotiating Committee, the Administration announced a $75 million package of assistance for developing countries, including a $50 million contribution to the GEF and $25 million over two years to assist in the development of national plans.

The Bush Administration was subjected to unrelenting criticism by European officials, environmentalists, certain members of Congress and others for its refusal to accept a $CO_2$ stabilization requirement as part of the Framework Convention. Aside from the fact that greenhouse warming still has not been scientifically detected, however, the Administration has other points in its favor:

First, the other nations urging adoption of such a requirement had no concrete plans to meet it and were in fact relying on a variety of schemes that were either questionable or self-interested. Japan was basing its projections on an unsustainable expansion of nuclear power capacity; France had similar plans and also hoped to increase electricity exports from its nuclear plants; Germany would probably rely on the elimination of subsidies to coal miners.

Second, U.S. emissions of $CO_2$ and other GHG's will probably stabilize at or around 1990 levels in any event. This was documented during the negotiations and is to be demonstrated in the U.S. national plan to be submitted pursuant to the Convention. Adopting a binding commitment, however, could have unforeseeable effects on the economy. If the Administration had agreed to make $CO_2$ stabilization a legal requirement, Congress was poised to enact it into law without even specifying how to achieve it.

Third, it is important to recall the way the international community responded to the threat to the ozone layer—a much more immediate, well-documented, and specific environmental threat. Agreement was initially reached on general principles through the Vienna Convention; only after these were specific requirements adopted through the Montreal Protocol and other agreements. Similarly, through adoption of the Framework Convention, the nations of the world have not only accepted general obligations of climate for the first time, but also have put in motion a process for responding to emerging developments on climate.

(4) BIODIVERSITY

Perhaps since the climate agreement had already been worked out, the Bush Administration's decision not to sign the Convention on Biodiversity that was finalized shortly before Rio became the lightning rod for criticism of U.S. policy. The Administration's decision was undercut as a result of a leak which disclosed that the chief U.S. negotiator, Environmental Protection Agency Administrator William Reilly had recommended pursuing an offer to reopen the text of this agreement.

The Administration had given notice of its intention not to sign the Biodiversity Convention unless certain problems were corrected; these included uncertain financial arrangements, an unnecessary focus on biotechnology, and failure to provide adequate recognition and protection to intellectual property rights (IPR), including patents. But the President and other senior officials never really explained the basis of their decision, leaving the impression that the United States was unwilling to participate in cooperative international agreements to protect the environment.

Actually, the Administration's objections to the Biodiversity Convention have merit. Much of the Convention represents a concerted attempt by the South, particularly those countries with large tropical forests and other natural areas, to capture the benefits of modern advances in biological technology. In fact, the basic provisions on protecting biodiversity are very vague and, in the case of the developing countries, made expressly conditional upon financial resources and transfer of technology.

The special focus on biotechnology in the Convention was unacceptable to the Administration because it considers this a special growth sector in the U.S. economy and has consistently argued (with considerable scientific support) that products of bio-technology should not be regulated differently from other items. With respect to IPR, the Administration was concerned about provisions, such as that in Article 16, which attempt to establish conditions for access to biological resources—*viz.*, "concessional and preferential terms where mutually agreed, . . . including technology protected by patents and other intellectual property rights . . .".

In fact, the emerging scientific interest in biological resources holds the promise that they can be better protected through being more highly valued for commercial purposes. However, experience including the oft-cited cooperative agreement between the Merck Pharmaceutical Company and the government of Costa Rica shows that such arrangements must be kept general at the outset in view of the many uncertainties in drug discovery, approval and marketing. Imposing onerous and time-consuming approval processes and negotiations at the front end will only serve to lessen the incentive for "chemical prospecting" in poorer countries and detract from conservation efforts.

(5) FORESTS

Despite opposition from countries like Malaysia with large tropical forests, the United States was successful in obtaining agreement to an authoritative but non-binding set of principles on the management of forest resources. It is unfortunate that more was not achieved on this subject, since the forests of the world are key reservoirs of biological diversity. Shortly before attending the Rio conference, the President announced that the United States would raise its assistance for forest conservation by $150 million per year as part of a multilateral program to double international support.

CONCLUSION

While there were successes in Rio, the Bush Administration came under criticism from virtually every quarter. Much of this was self-serving; despite our relatively high levels of energy consumption, the U.S. record on environmental protection is surely among the finest in the world. The Administration was reluctant to take on additional environmental and financial commitments, however, due to the domestic economic situation and a belief that satisfying the demands of developing countries and environmental activists at Rio would be virtually impossible.

As things happened, it was just this reluctance to step forward on behalf of U.S. values and interests that opened the Administration to the most intense criticism. In addition to pointing to our undeniable record of environmental protection, the Administration should have more forcefully championed the importance of economic growth under free market and free trade conditions, as well as democratic institutions and citizen participation, as the pillars of true environmental protection. U.S. negotiators had worked hard to include these principles at appropriate places in the various agreements reached at UNCED. The Administration's basic approach and its objections to certain proposals were well-founded, but the caution it displayed encouraged criticism.

Only history can judge whether the Earth Summit leads to greater international efforts to protect the global environment. The discussions at Rio will, however, undoubtedly affect the world political and economic environment for many years to come.

□ 2120

GENERAL LEAVE

Mr. ENGEL. 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 House Concurrent Resolution 353, as amended.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ENGEL. 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. ENGEL] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 353, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

## ENTERPRISE FOR THE AMERICAS INITIATIVE

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4059) to amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes, as amended.

The Clerk read as follows:

*H.R. 4059*

*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 "Enterprise for the Americas Initiative Act of 1992".*

***SEC. 2. GOOD NEIGHBOR ENVIRONMENTAL ACT OF 1992.***

*Title VI of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738 and following) is amended by adding at the end the following new sections:*

***"SEC. 616. SALE OF QUALIFIED DEBT TO ELIGIBLE COUNTRIES.***

*"(a) IN GENERAL.—*

*"(1) AUTHORIZATION.—The President may sell to an eligible country up to 40 percent of such country's qualified debt, only if an amount of the local currency of such country (other than the price paid for the debt) equal to—*

*"(A) not less than 40 percent of the price paid for such debt by such eligible country, or*

*"(B) the difference between the price paid for such debt and the face value of such debt;*

*whichever is less, is used by such country through an Environmental Fund for eligible activities described in section 612.*

*"(2) ENVIRONMENTAL FUNDS.—For purposes of this section, the term 'Environmental Fund' means an Environmental Fund established under section 608. In the case of Mexico, such fund may be designated as the Good Neighbor Environmental Fund for the Border.*

*"(3) ESTABLISHMENT AND OPERATION OF ENVIRONMENTAL FUNDS.—The President should advise eligible countries on the procedures required to establish and operate the Environmental Funds required to be established under paragraph (1).*

*"(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions, including the amount to be paid by the eligible country, under which such country's qualified debt may be sold under this section.*

*"(c) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.*

*"(d) CERTAIN PROHIBITIONS INAPPLICABLE.—A sale of debt under this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.*

*"(e) IMPLEMENTATION BY THE FACILITY.—A sale of debt authorized under this section shall be accomplished at the direction of the Facility. The Facility shall direct the Commodity Credit Corporation to carry out such sale. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect the sale.*

*"(f) DEPOSIT OF PROCEEDS.—The proceeds from a sale of qualified debt under this section shall be deposited in the account or accounts established by the Commodity Credit Corporation for the repayment of such debt by the eligible country.*

*"(g) DEBTOR CONSULTATION.—Before any sale of qualified debt may occur under this section, the President should consult with the eligible country's government concerning such sale. The topics addressed in the consultation shall include the amount of qualified debt involved in the transaction and the uses to which funds made available as a result of the sale shall be applied.*

***"SEC. 617. SALE, REDUCTION, OR CANCELLATION OF QUALIFIED DEBT TO FACILITATE CERTAIN DEBT SWAPS.***

*"(a) AUTHORITY TO SELL, REDUCE, OR CANCEL QUALIFIED DEBT.—For the purpose of facilitating eligible debt swaps, the President, in accordance with this section—*

*"(1) may sell to an eligible purchaser (as determined pursuant to subsection (c)(1)) any qualified debt of an eligible country; or*

*"(2) may reduce or cancel eligible debt of an eligible country upon receipt of payment from an eligible payor (as determined under subsection (c)(2)).*

*"(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions under which qualified debt may be sold, reduced, or canceled pursuant to this section.*

*"(c) ELIGIBLE PURCHASERS AND ELIGIBLE PAYORS.—*

*"(1) SALES OF DEBT.—Qualified debt may be sold pursuant to subsection (a)(1) only to a purchaser who presents plans satisfactory to the President for using the debt for the purpose of engaging in eligible debt swaps.*

*"(2) REDUCTION OR CANCELLATION OF DEBT.—Qualified debt may be reduced or cancelled pursuant to subsection (a)(2) only if the payor presents plans satisfactory to the President for using such reduction or cancellation for the purpose of facilitating eligible debt swaps.*

*"(d) DEBTOR CONSULTATION AND RIGHT OF FIRST REFUSAL.—*

*"(1) CONSULTATION.—Before selling, reducing, or canceling any qualified debt of an eligible country pursuant to this section, the President should consult with that country concerning, among other things, the amount of debt to be sold, reduced, or canceled and the uses of such debt for eligible debt swaps.*

*"(2) RIGHT OF FIRST REFUSAL.—The qualified debt of an eligible country may be sold, reduced, or cancelled pursuant to this section only if that country has been offered the opportunity to purchase that debt pursuant to section 616 and has not accepted that offer.*

*"(e) LIMITATION.—In the aggregate, not more than 40 percent of the qualified debt of an eligible country may be sold, reduced, or cancelled under this section or sold under section 616.*

*"(f) ADMINISTRATION.—The Facility shall notify the Commodity Credit Corporation of purchasers and payors the President has determined to be eligible under subsection (c), and shall direct the corporation to carry out the sale, reduction, or cancellation of a qualified debt pursuant to this section. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect such sale, reduction, or cancellation.*

*"(g) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.*

*"(h) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of qualified debt pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such debt.*

*"(i) ELIGIBLE DEBT SWAPS.—As used in this section, the term 'eligible debt swap' means a debt-for-development swap or debt-for-nature swap.*

***"SEC. 618. NOTIFICATION TO CONGRESSIONAL COMMITTEES.***

*"(a) NOTICE OF NEGOTIATIONS.—The Secretary of State and the Secretary of the Treasury shall, in every feasible instance, notify the designated congressional committees not less than 15 days prior to any formal negotiation for debt relief under this title.*

*"(b) TRANSMITTAL OF TEXT OF AGREEMENTS.—The Secretary of State shall transmit to the designated congressional committees a copy of the text of any agreement with any foreign government which would result in any debt relief under this title no less than 30 days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief.*

*"(c) ANNUAL REPORT.—The Secretary of State or the Secretary of the Treasury, as appropriate, shall submit to the designated congressional committees not later than February 1 of each year a consolidated statement of the budgetary implications of all debt relief agreements entered into force under this title during the preceding fiscal year.*

*"(d) DESIGNATED CONGRESSIONAL COMMITTEES.—As used in this section, the term 'designated congressional committees' means the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.*

***SEC. 619. DEFINITION OF QUALIFIED DEBT.***

*"As used in sections 616, 617, and 618, the term 'qualified debt' means any obligation, or portion of such obligation, of an eligible country to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act or section 4(b) of the Food for Peace Act of 1966—*

*"(1) in which the Commodity Credit Corporation obtained a legal right or interest, as a result of assignment or subrogation, not later than September 1, 1992; and*

*"(2) the payment of which obligation has been, not later than September 1, 1992, rescheduled in accordance with principles set forth in an Agreed Minute of the Paris Club.*

*Such term includes the obligation to pay any interest which was due or accrued not later than September 1, 1992, and unpaid as of the date of a debt sale pursuant to section 616 or or a debt sale, reduction, or cancellation pursuant to section 617 (as the case may be).".*

*SEC. 3. ANNUAL REPORTS TO THE CONGRESS.*

*Section 614(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm(a)) is amended by adding at the end the following: "This report shall include—*

*"(1) a description of the activities undertaken by the Facility during the previous fiscal year;*

*"(2) a description of any Enviromental Framework Agreement entered into under this title;*

*"(3) a report on what Environmental Funds have been established under this title and on the operations of such Funds; and*

*"(4) a description of any grants that have been extended by administering bodies pursuant to an Enviromental Framework Agreement under this title.".*

*SEC. 4. CENTER FOR NORTH AMERICAN STUDIES.*

*(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a center, to be known as the Center For North American Studies, whose primary purpose shall be to promote better agricultural relationships among Canada, Mexico, and the United States through cooperative study, training, and research.*

*(b) LOCATION.—The Institute shall be located at an institution of higher education or at a consortium of such institutions.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1994 and such sums as may necessary for each of fiscal years 1995 and 1996.*

*SEC. 5. STUDY OF THE EFFECT OF FREE TRADE WITH LATIN AMERICAN AND CARIBBEAN COUNTRIES ON THE UNITED STATES ECONOMY.*

*The President shall transmit to the Congress, not later than 8 months after the date of the enactment of this Act, a study describing—*

*(1) in summary fashion, the likely effect on major United States industries and other sectors, including agriculture, that could be most affected by a hemispherical free trade zone with Latin American and Caribbean countries;*

*(2) the regions in the United States that would be most affected by a hemispherical free trade zone with Latin American and Caribbean countries and, in summary fashion, the nature of these effects;*

*(3) the extent to which horticultural exports from Latin American and Caribbean countries complement or compete with United States production;*

*(4) a country-by-country overview of recent economic developments in Latin American and Caribbean countries significantly influencing United States relations with such countries, including present trade and investment patterns in these regions;*

*(5) the likely effect of a hemispherical free trade zone with Latin American and Caribbean countries on the United States economy and its multilateral interrelationship with other countries in the region, including Canada and Mexico;*

*(6) the extent to which manufactured products exported from Latin American and Caribbean countries complement or compete with United States production; and*

*(7) the likely effects of a hemispherical free trade zone with Latin American and Caribbean countries on existing environmental, agricultural, labor, and consumer protection laws and practices within the United States and within the other countries included in the zone.*

*SEC. 6. THE GOOD NEIGHBOR ENVIRONMENTAL BOARD.*

*(a) ESTABLISHMENT.—The President shall establish an advisory board to be known as the Good Neighbor Environmental Board (hereinafter in this section referred to as the "Board").*

*(b) PURPOSE.—The purpose of the Board shall be to advise the President and the Congress on the need for implementation of environmental and infrastructure projects (including projects that affect agriculture, rural development, and human nutrition) within the States of the United States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border.*

*(c) MEMBERSHIP.—The Board shall be composed of—*

*(1) representatives from the United States Government, including a representative from the Department of Agriculture and representatives from other appropriate agencies;*

*(2) representatives from the governments of the States of Arizona, California, New Mexico, and Texas; and*

*(3) representatives from private organizations, including community development, academic, health, environmental, and other nongovernmental entities with experience and expertise on environmental and infrastructure problems along the southwest border.*

*(d) ANNUAL REPORTS TO THE PRESIDENT AND CONGRESS.—*

*(1) IN GENERAL.—The Board shall submit to the President and the Congress of the United States an annual report on—*

*(A) the environmental and infrastructure projects referred to in subsection (a) that have been implemented, and*

*(B) the need for the implementation of additional environmental and infrastructure projects.*

*(2) TRANSMISSION OF COPIES TO BOARD MEMBERS.—The Board shall—*

*(A) transmit to each member of the Board a copy of any report to be submitted pursuant to paragraph (1) at least 14 days before its submission, and*

*(B) allow each member of the Board to have 14 days within which to prepare and submit supplemental views with respect to the recommendations of the Board for inclusion in such report.*

Mr. SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] 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 Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4059, the Good Neighbor Environmental Act of 1992, establishes a workable and cost-effective way to help some of the countries of Latin America and the Caribbean finance environmental projects.

H.R. 4059 achieves this objective through an innovative approach that will help reduce our official debt exposure. It is an approach that promotes the improvement of environmental conditions in Latin America and the Caribbean. This bill thus creates a win-win situation for the U.S. taxpayer and for the cause of environmental quality.

Under H.R. 4059, the U.S. Treasury is authorized to accept payment immediately on a debt that—under Paris Club rescheduling terms—would not have to be paid back, in most cases, for another 5, 10, or 15 years.

The approach taken in this bill is what I would term a government-to-government, debt-for-environment swap. H.R. 4059 authorizes the President to sell at the market price up to 40 percent of the so-called Paris Club rescheduled debt owed by nine Latin American and Caribbean countries to the U.S. Department of Agriculture's Commodity Credit Corporation [CCC]. Among the countries that could use this mechanism are Mexico, Brazil, Chile, and Jamaica.

Up to approximately $500 million of the $1.4 billion owed to the CCC under the Paris Club agreement could be repurchased under the bill's provisions. However, a market rate sale can only take place if the debtor country agrees to commit an amount equivalent to 40 percent of the purchase price in local currency to finance eligible environmental projects in that country.

I would like to point out that this legislation can directly benefit the millions of Americans who live near the United States-Mexico border. H.R. 4059 allows the proceeds derived from Mexico's participation in this mechanism to be used to finance environmental projects along the United States-Mexico border and in the Gulf of Mexico. Thus, Mexican participation in this mechanism will benefit people on both sides of the border.

Mr. Speaker, the projects that could be undertaken through the financing made available under this legislation include both nature and development projects. An eligible project could be a local initiative to protect the environment or a project to improve human living conditions threatened by environmental degradation.

H.R. 4059 has another provision I would like to highlight. The legislation authorizes a comprehensive study on the potential effects of a free trade zone with Latin America and the Caribbean, as envisioned under the Enterprise for the Americas Initiative. This provision recognizes the need for Congress to have a comprehensive analysis done on the economic, labor, and environmental effects a hemispheric free trade zone may create.

Mr. Speaker, this legislation is a logical extension of the only part of the Enterprise for the Americas Initiative that has been authorized by the Congress—that is, the EAI provision to reduce Public Law 480 debt included in the 1990 Farm Act, and that was funded in the agricultural appropriations bill signed into law a month ago.

Mr. Speaker, I would like to thank the chairman, the gentleman from Florida [Mr. FASCELL], the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from New Jersey [Mr. TORRICELLI], the gentlemen from New Jersey [Mr. GEJDENSON], the gentleman from California [Mr. BERMAN], and all my colleagues on the Committee on Foreign Affairs, which received a sequential referral of the legislation, for their contributions and suggestions for fine-tuning this excellent bill. The ad-

ministration has expressed its support for passage of H.R. 4059.

Mr. Speaker, the United States, Mexico, and other Latin American countries have committed themselves to tackling the environmental problems they face within their border. Let's seize this opportunity to build upon the commitment in Mexico and other parts of Latin America and the Caribbean. I urge passage of the bill.

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 rise in strong support of H.R. 4059, the Enterprise for the Americas Initiative. This bill puts into place a critical element of the Latin American policy designed by the President to improve the lives of all people of this hemisphere through market-oriented reforms and economic growth.

The Enterprise for the Americas Initiative moves us away from the handout policies of the past to the hand-up approach which will promote economic growth and democratic reform. It will focus our efforts on critical sectors of the Latin American and Caribbean economies, including community based conservation, sustainable use of the environment, and child survival and child health.

This legislation allows the President to undertake sales, reductions and swaps for eligible countries for Commodity Credit Corp. debt obligations.

Several aspects of H.R. 4059 will improve cooperation throughout the hemisphere. By creating a special United States-Mexico Environmental Board, we will develop greater cooperation and understanding of the environmental issues of our southern border.

I would like to salute the sponsors of the legislation, particularly the gentleman from Texas, Agriculture Committee Chairman DE LA GARZA, and the gentleman from Florida, Foreign Affairs Committee Chairman FASCELL, for their tireless efforts in crafting this legislation and bringing it before us today. I urge its prompt adoption.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. 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 Texas [Mr. de la GARZA] that the House suspend the rules and pass the bill, H.R. 4059, 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.

## HAWAII TROPICAL FOREST RECOVERY ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 2679) to promote the recovery of Hawaii tropical forests, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2679

*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 "Hawaii Tropical Forest Recovery Act".

**SEC. 2. HAWAII TROPICAL FOREST RECOVERY.**

(a) IN GENERAL.—The International Forestry Cooperation Act of 1990 (16 U.S.C. 4501 et seq.) is amended—

(1) by redesignating sections 605, 606, and 607 as sections 609, 610, and 611, respectively; and

(2) by inserting after section 604 the following new sections:

**"SEC. 605. INSTITUTE OF PACIFIC ISLANDS FORESTRY.**

"(a) EXPANSION.—The Secretary shall expand the capabilities of and construct additional facilities, as funds are appropriated for the expansion and construction, at—

"(1) the Institute of Pacific Islands Forestry; and

"(2) tropical forests in the State of Hawaii.

"(b) TROPICAL FORESTRY PLAN.—

"(1) IN GENERAL.—Not later than 1 year after the date of receipt by the Secretary of the action plan required by section 5(b) of the Hawaii Tropical Forest Recovery Act, the Secretary shall prepare and submit to the Committee on Agriculture and the Committee on Interior and Insular Affairs of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and to the Committees on Appropriations of the House of Representatives and Senate, a tropical forestry plan to expand the capabilities of and construct additional facilities under subsection (a).

"(2) ELEMENTS.—The plan shall provide for—

"(A) the establishment of a model center for research, demonstration, education, training, and outreach activities suitable for transferring scientific, technical, managerial, and administrative assistance to governmental and non-governmental organizations seeking to address problems associated with tropical forests within and outside the United States;

"(B) the acquisition or construction of facilities for research, classroom instruction, and housing near an experimental tropical forest in the State of Hawaii;

"(C) the acquisition or construction of facilities for the study and recovery of endangered tropical wildlife, fish, and plant species and the restoration of their habitats;

"(D) the study of biological control of nonnative species that degrade or destroy native forest ecosystems;

"(E) achieving a better understanding of global climate change and the significance of achieving a reduction of greenhouse gases through research associated with the unique atmospheric conditions found in Hawaii and the Pacific Ocean;

"(F) a review of the extent to which existing Federal forestry programs can be utilized to achieve the purposes of the plan; and

"(G) the establishment of experimental tropical forests in the State of Hawaii as authorized by section 606.

"(3) CAPABILITY.—In preparing elements of the plan that address paragraph (2)(F), the Secretary shall identify the capability of the plan—

"(A) to promote a greater understanding of tropical forest ecosystem processes, conservation biology, and biodiversity management;

"(B) to demonstrate the various benefits of maintaining a tropical forest reserve system;

"(C) to promote sound watershed and forest management;

"(D) to develop compatible land uses adjacent to protected natural areas; and

"(E) to develop new methods of reclaiming and restoring degraded lands.

**"SEC. 606. HAWAII EXPERIMENTAL TROPICAL FOREST.**

"(a) DEFINITIONS.—As used in this section:

"(1) FOREST.—The term 'Forest' means the Hawaii Experimental Tropical Forest.

"(2) GOVERNOR.—The term 'Governor' means the Governor of Hawaii.

"(3) LANDS.—The term 'lands' means lands, waters, and interests in lands and waters.

"(4) STATE.—The term 'State' means the State of Hawaii.

"(b) ESTABLISHMENT AND MANAGEMENT.—At the request of the Governor, the Secretary shall establish and administer within the State a Hawaii Experimental Tropical Forest. The Forest shall be managed as—

"(1) a model of quality tropical forest management where harvesting on a sustainable yield basis can be demonstrated in balance with natural resource conservation;

"(2) a site for research on tropical forestry, conservation biology, and natural resource management; and

"(3) a center for demonstration, education, training, and outreach on tropical forestry, conservation biology, and natural resources research and management.

"(c) DELINEATION OF THE LOCATION OF THE FOREST.—

"(1) IDENTIFICATION OF LANDS.—The Governor and the Secretary shall identify one or more suitable sites for the Forest in lands within the State. The identification of each site shall be based on scientific, ecological, administrative, and such other factors as the Governor and Secretary consider to be necessary or desirable to achieve the purposes of this section. Each site identified pursuant to the preceding sentence shall be of sufficient size and located so that the site can be effectively managed for Forest purposes.

"(2) EXTERIOR BOUNDARIES.—The exterior boundaries of the Forest, including the boundaries of all sites identified for Forest purposes, shall be delineated on an official map. The map shall be available for public inspection in the office of the Administrator of the Division of Forestry and Wildlife of the Department of Land and Natural Resources of the State. The Governor and the Secretary may from time to time, by mutual agreement, amend the official map to modify the boundaries of the Forest.

"(d) AUTHORITIES OF THE SECRETARY.—

"(1) IN GENERAL.—To carry out the purposes of this section, the Secretary is authorized—

"(A) to administer the Forest in cooperation with the Governor and affected State agencies;

"(B) to make grants and enter into contracts and cooperative agreements with the Federal Government, the government of the State, local governments, corporations, nonprofit organizations and individuals;

"(C) to exercise existing authority with respect to cooperative forestry and research for Forest purposes; and

"(D) to issue necessary rules and regulations or apply existing rules and regulations applicable to areas administered by the Forest Service that are necessary or desirable to administer the Forest—

"(i) for the purposes described in subsection (b);

"(ii) to protect persons within the Forest; and

"(iii) to preserve and protect the resources in the Forest.

"(2) LAND ACQUISITION.—The authority in section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) shall be available to the Secretary to carry out this section.

"(3) STATUTORY CONSTRUCTION.—Nothing in this section is intended to affect the jurisdiction of the State, both civil and criminal, over any person within the Forest by reason of the establishment of the Forest under this section, except in the case of a penalty for an offense against the United States.

**"SEC. 607. ANNUAL REPORT ON INSTITUTES OF TROPICAL FORESTRY.**

"The Secretary shall make annual reports to Congress on the progress, needs, and long-range plans of the Institutes of Tropical Forestry in meeting the requirements of section 2407 of the Global Climate Change Prevention Act of 1990 (7 U.S.C. 6706). Such reports shall be submitted by the Secretary pursuant to section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1606(c)).

**"SEC. 608. DEFINITIONS.**

"As used in this title (unless the context otherwise requires):

"(1) INSTITUTES OF TROPICAL FORESTRY.—The term 'Institutes of Tropical Forestry' means the Institute of Tropical Forestry in Puerto Rico and the Institute of Pacific Islands Forestry established under section 2407 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6706).

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(3) STATE.—The term 'State' means each of the 50 States, Guam, American Samoa, the Republic of Palau (until the Compact of Free Association enters into effect), Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.".

(b) CONFORMING AMENDMENTS.—

(1) Section 602(b) of the International Forestry Cooperation Act of 1990 (16 U.S.C. 4501(b)) is amended by striking "(hereinafter referred to in this title as the Secretary)".

(2) The heading of section 604 of such Act (16 U.S.C. 4503) is amended to read as follows:

**"SEC. 604. INSTITUTE OF TROPICAL FORESTRY IN PUERTO RICO.".**

**SEC. 3. TROPICAL FORESTRY RESEARCH AND ASSISTANCE.**

(a) ASSISTANCE.—To promote sound management and conservation of tropical forests of the United States and to promote the development and transfer of technical, managerial, educational, and administrative skills to managers of tropical forests within or outside the United States, the Secretary of Agriculture is authorized to provide assistance through the Forest Service to eligible entities in States with tropical forests to—

(1) develop, promote, and demonstrate sustainable harvesting of native woods and other forest products on a sustainable yield basis in balance with natural resource conservation;

(2) promote habitat preservation and species protection or recovery;

(3) protect indigenous plant and animal species and essential watersheds from nonnative animals, plants, and pathogens;

(4) establish biological control agents for non-native species that threaten natural ecosystems;

(5) establish a monitoring system in tropical forests to identify baseline conditions and determine detrimental changes or improvements over time;

(6) detect and appraise stresses affecting tropical forests caused by insect infestations, diseases, pollution, fire, and non-native animal and plant species, and by the influence of people;

(7) determine the causes of changes that are detected through experimentation, intensive monitoring, and data collection at affected tropical forest sites; and

(8) engage in research, demonstration, education, training, and outreach that furthers the objectives of this subsection.

(b) FORM OF ASSISTANCE.—Assistance provided to eligible entities under this section may be in the form of grants, contracts, or cooperative agreements.

(c) DEFINITIONS.—As used in this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means a State forester or equivalent State official, State, political subdivision of a State, Federal agency, private organization, corporation, or other private person.

(2) STATE.—The term "State" means each of the 50 States, Guam, American Samoa, the Republic of Palau (until the Compact of Free Association enters into effect), Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

**SEC. 4. HAWAII TROPICAL FOREST RECOVERY TASK FORCE.**

(a) ESTABLISHMENT.—There is established the Hawaii Tropical Forest Recovery Task Force (hereafter in this section referred to as the "Task Force") to advise the Secretary of Agriculture with respect to tropical forests and related ecosystems in the State of Hawaii.

(b) ACTION PLAN.—Not later than 1 year after the date of the first meeting of the Task Force, the Task Force shall submit to the Committees, Secretaries, and Governor referred to in subsection (k) an action plan that contains findings and recommendations for rejuvenating Hawaii's tropical forests, including findings and recommendations on—

(1) methods of restoring the health of declining or degraded tropical forest land;

(2) compatible uses within tropical forests, particularly agroforestry and the cultivation of scarce or valuable hardwoods and other forest products in Hawaii's tropical forests;

(3) actions to encourage and accelerate the identification and classification of unidentified plant, animal, and microbe species;

(4) actions to—

(A) promote public awareness of tropical forest preservation;

(B) protect threatened and endangered species;

(C) improve forest management and planning; and

(D) promote public awareness of the harm caused by introduced species;

(5) the benefits of fencing or other management activities for the protection of Hawaii's native plants and animals from nonnative species, including the identification and priorities for the areas where these activities are appropriate;

(6) traditional practices, uses, and needs of native Hawaiians in tropical forests;

(7) means of improving the health of tropical forests and related ecosystems in the State of Hawaii through programs administered by the Secretary of Agriculture and the Secretary of the Interior;

(8) the capability of existing Federal, State, and private forestry programs for rejuvenating Hawaii's tropical forests; and

(9) such other issues relating to tropical forests in Hawaii as the Task Force considers appropriate.

(c) COMPOSITION.—The Task Force shall be composed of 12 members, of whom—

(1) three members shall be appointed by the Secretary of Agriculture, two of whom shall be representatives of the Forest Service and the Soil Conservation Service, respectively;

(2) two members shall be appointed by the Secretary of the Interior as representatives of the United States Fish and Wildlife Service and the National Park Service, respectively;

(3) six members shall be appointed by the Governor of Hawaii, of whom—

(A) two members shall be private owners of tropical forest lands;

(B) two members shall be experts in the field of tropical forestry; and

(C) two members shall be representatives of Hawaii conservation organizations that have demonstrated expertise in the areas of tropical forest management, habitat preservation, and alien species control or have demonstrated effective advocacy in the areas; and

(4) one member shall be the Administrator of the Department of Land and Natural Resources, State of Hawaii, or the designated representative of the Administrator.

(d) INITIAL APPOINTMENTS.—Appointments under this section to the Task Force shall be made not later than 90 days after the date of enactment of this Act.

(e) CHAIRPERSON.—The Task Force shall select a Chairperson from among its members.

(f) VACANCIES.—A vacancy on the Task Force shall not affect its powers and shall be filled in the same manner as the original appointment.

(g) COMPENSATION.—

(1) IN GENERAL.—A member of the Task Force shall not receive compensation as a result of the performance of services for the Task Force.

(2) TRAVEL EXPENSES.—The members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Task Force.

(h) MEETINGS.—The Task Force shall meet not later than 180 days after the date of enactment of this Act and shall meet at the call of the Chairperson.

(i) VOTING.—The Task Force shall act and advise by majority vote.

(j) ASSISTANCE.—The Secretary of Agriculture and the Secretary of the Interior shall provide such assistance and support as are necessary to meet the objectives of the Task Force. The assistance shall include making Federal facilities, equipment, tools, and technical assistance available on such terms and conditions as the appropriate Secretary considers necessary.

(k) REPORT.—The action plan required under subsection (b) shall be submitted to—

(1) the Committees on Agriculture and Interior of the House of Representatives;

(2) the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate;

(3) the Secretary of Agriculture;

(4) the Secretary of the Interior; and

(5) the Governor of Hawaii.

(l) NONAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.—Sections 7(d), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Task Force.

(m) TERMINATION.—The Task Force and authority to carry out this section shall terminate 180 days after submitting the report required by subsection (b).

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out sections 3 and 4.

The Senate bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. DE LA GARZA. 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. 4059, as amended, and S. 2679.

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

There was no objection.

## CONGRESSIONAL AWARD ACT AMENDMENTS OF 1992

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6049) to amend the Congressional Award Act to revise and extend authorities for the Congressional Award Board.

The Clerk read as follows:

H.R. 6049

*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 "Congressional Award Act Amendments of 1992".

**SEC. 2. REQUIREMENTS REGARDING FINANCIAL OPERATIONS OF CONGRESSIONAL AWARD PROGRAM; NONCOMPLIANCE WITH REQUIREMENTS.**

Section 5 of the Congressional Award Act (2 U.S.C. 804) is amended by adding at the end the following subsection:

"(c)(1) The Director shall, in consultation with the Board, ensure that appropriate procedures for fiscal control and fund accounting are established for the financial operations of the Congressional Award Program, and that such operations are administered by personnel with expertise in accounting and financial management. Such personnel may be retained under contract. In carrying out this paragraph, the Director shall ensure that the liabilities of the Board do not, for any calendar year, exceed the assets of the Board.

"(2)(A) The Comptroller General of the United States shall determine, for calendar years 1993 and 1994, whether the Director has substantially complied with paragraph (1). The findings made by the Comptroller General under the preceding sentence shall be included in the first report submitted under section 8(b) after December 31, 1994.

"(B) If the Director fails to substantially comply with paragraph (1), the Board shall take such actions as may be necessary to prepare, pursuant to section 9, for the orderly cessation of the activities of the Board.".

**SEC. 3. TERMINATION.**

Section 9 of the Congressional Award Act (2 U.S.C. 808) is amended by striking "October 1, 1992" and inserting "October 1, 1995".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS of New York. 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. 6049.

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

There was no objection.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6049, the Congressional Award Act Amendments of 1992, reauthorizes the Congressional Award Program—a program to recognize youth volunteer efforts within congressional districts.

Under the renewed leadership of the 34-member Board of Directors, the program continues to thrive and grow. Although the program has made great strides since its reauthorization 2 years ago, there is still a need for stronger internal financial controls. Therefore, H.R. 6049 amends current law to ensure that appropriate fiscal procedures are implemented.

I urge a unanimous vote for this bipartisan legislation.

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

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

Mr. Speaker, I have no objection to passage of H.R. 6049, the Congressional Award Act which will reauthorize the Congressional Award Program for 3 years at no cost to the taxpayer. This program is a youth volunteer program and spends no Federal funds.

H.R. 6049 requires the Director of the Congressional Award Program to establish financial procedures for fiscal control and accounting to be administered by personnel with expertise in accounting and financial management. The General Accounting Office recommended that such controls be implemented in order for this program to be made more accountable. If such controls are not implemented and effective within 2 years, the Congressional Award Board shall take steps to termine. I would like to submit the letter from the General Accounting Office recommending that such financial controls be established. This is a noncontroversial bill and I urge that it be passed.

U.S. GENERAL ACCOUNTING OFFICE,
*Washington, DC, June 23, 1992.*

Hon. JOHN GLENN,
*Chairman, Committee on Governmental Affairs, U.S. Senate.*

Hon. MAJOR R. OWENS,
*Chairman, Subcommittee on Select Education, Committee on Education and Labor, House of Representatives.*

In response to your May 7, 1992, joint letter, we are providing information on the Congressional Award Foundation. Specifically, you asked that we provide our assessment of three issues related to the financial condition and management of the Foundation—the accuracy of the Foundation's 1991 financial statements, the effectiveness of the Foundation's financial management, and the Foundation's ability to operate in a financially sound manner.

During the first 4 months of calendar year 1992, the Foundation received increased contributions, which improved its financial position and ability to meet obligations in a timely manner. However, the Foundation continues to experience several lingering internal control problems, including problems in preparing its financial statements. The Foundation's ability to operate in a financially sound manner depends, in part, on its ability to strengthen its internal controls, specifically by hiring or otherwise acquiring access to staff with increased financial management expertise.

The Congressional Award Foundation was established in 1979 under Public Law 96-114 and is a private, nonprofit, tax-exempt organization established to promote initiative, achievement, and excellence among youth in areas of public service, personal development, and physical fitness. Public Law 101-525 reauthorized the Foundation's existence through September 1992. The Foundation is administered by a board of directors, which currently consists of 34 members.

At the time of your request, we were in the midst of completing our audit of the Congressional Award Foundation's 1990 financial statements and had not yet begun an audit of the 1991 statements. To respond to your request, we delayed completing our audit of the 1990 statements and instead performed certain procedures related to the statements included in the Foundation's 1991 annual report.

We interviewed Foundation officials and accounting staff, analyzed information contained in the financial statements, and reviewed supporting documentation, such as written policies and procedures, bank deposits, bank statements, invoices, and canceled checks. We performed our work from May 1992 through June 1992 in accordance with generally accepted government auditing standards. We discussed the results of our work with the responsible Foundation officials and have incorporated their comments where appropriate. We did not, however, verify the accuracy of all financial statement amounts.

ACCURACY OF THE FOUNDATION'S 1991 FINANCIAL STATEMENTS

The Foundation's 1991 financial statements contained several inaccuracies. In particular, the Foundation's fund balance on one statement was materially incorrect, and the statements did not adequately disclose certain financial transactions. Some examples follow.

In its Statement of Revenue and Expenses and Change in Fund Balance for the year ended December 31, 1991, the Foundation incorrectly reported a positive fund balance of more than $32,000. In its Statement of Financial Position, however, the Foundation correctly reported that if finished 1991 with a negative fund balance of more than $19,000. Foundation officials told us this inconsistency was caused by a mathematical error.

The Statement of Financial Position showed a loan payable of $50,000, but did not disclose the source, terms, or purpose of the loan. The loan was an interest-free loan from a relative of a Board member. Generally accepted accounting principles require that the statements disclose the terms of the loan and its related-party nature.

Restricted and unrestricted funds were not properly segregated in conformity with generally accepted accounting principles. Such segregation identifies any limits on use of funds for carrying out the Foundation's objectives and operations.

The Foundation did not disclose that in 1991 it was late in filing required information with the Internal Revenue Service and in paying federal withholding taxes. The Internal Revenue Service assessed the Foundation penalties for similar problems in 1990.

EFFECTIVENESS OF THE FOUNDATION'S FINANCIAL MANAGEMENT

The Foundation has continued to experience several lingering internal control problems which could detract from its ability to effectively and efficiently carry out its program responsibilities. We believe that the Foundation's ability to correct these problems depends on its ability to hire or otherwise acquire access to staff with increased financial management expertise.

*Inadequate segregation of duties*

The Foundation did not have adequate internal controls over the receipt and handling of contribution funds. As a result, the Foundation was subject to the risk that contribution funds might be misappropriated or lost.

Duties involving the receipt of funds must be segregated to reduce the opportunities which allow a person to perpetrate and conceal errors or irregularities in the normal course of his or her duties. Duties should be assigned so that the same person is not responsible for receiving funds and for maintaining and accounting for them. In May 1991, we met with Foundation officials and made suggestions to change the procedures over the receipt of funds. Specifically, we suggested that one person open the mail and prepare an adding machine tape of all funds and another prepare the bank deposits. Control over the funds would be further strengthened by comparing the adding machine tape and the accounting records prepared by the people.

However, based on our review of related accounting records for September 1991 through March 1992, the Foundation did not always have evidence that it properly segregated the receipt and handling of contributions. In particular, adding machine tapes were not always initialed to indicate that the person who opened the mail and received contributions was not the same person who prepared the bank deposits.

*Inadequate control over fixed assets*

The Foundation did not adequately control fixed assets, increasing the risk that the assets could be lost or stolen. We also identified problems with fixed assets in our reports on the Foundation's 1987 and 1989 financial statements.[1]

The Foundation has developed written policies and procedures for depreciating fixed assets and now maintains a list of fixed assets. However, the Foundation has not tagged or otherwise identified all of its fixed assets or their locations, thus exposing them to theft or other loss.

*Inadequate control over disbursements*

The Foundation did not maintain subsidiary records for disbursements, nor do we believe it always conducted sufficient analyses of invoices before paying bills. As a result, the Foundation ran an unusually high risk of making incorrect disbursements. In fact, we found one instance in which the Foundation overpaid 1 month's charges for leased equipment and one instance in which the Foundation paid duplicate invoices for the same service.

As discussed later, these problems were further exacerbated by the Foundation's late payment of many bills, resulting in a number of past due notices and increased paperwork. Foundation officials acknowledged the disbursement problems, but believed that recent improvement in the Foundation's cash flow would help to enable timely bill payment.

*Inadequate financial management staffing*

For several years, the Foundation has struggled with repeated financial management problems. For example, in our report on the Foundation's 1987 financial statements (GAO/AFMD-89-14), we disclosed two material internal control weaknesses regarding safeguarding of assets and reimbursement of the National Director's expenses. The Foundation has acknowledged problems and has resolved some of them. However, the Foundation has not been able to institutionalize the reforms necessary to ensure contributors and others that Foundation funds are handled and accounted for in a manner that reduces the risk for fraud, waste, and mismanagement.

The key Foundation official responsible for financial management is also responsible for other important but not directly related functions, such as formulating policies, performing fundraising activities, and managing Foundation programs. Foundation officials strongly agree that hiring or otherwise acquiring access to staff with increased financial management expertise would be an important step in the right direction, and told us they are considering a number of options for doing that. Such staff should be responsible for designing, implementing, and evaluating the effectiveness of the Foundation's internal controls, including accounting for the Foundation's operations and activities and preparing the Foundation's financial statements.

THE FOUNDATION'S ABILITY TO OPERATE IN A FINANCIALLY SOUND MANNER

The Foundation reported that it ended 1991 with a negative fund balance. The Foundation acknowledged to us that it also had serious cash flow problems during the year and that, as a result, it was sometimes as much as 8 months late in paying many of its bills. However, Foundation officials said that increased contributions in 1992 and recent actions by the Board have helped to improve the Foundation's financial position and enabled timely bill payment.

The Foundation received about $109,000 in contributions during the first 4 months of calendar year 1992, well ahead of the pace set by the $182,000 it received for calendar year 1991. The Foundation attributed this increase to new, more active Board members and to the Foundation's success in attracting an increased number of new contributors.

In addition, the Board has taken a number of actions to reduce the Foundation's expenditures, thus further improving the Foundation's cash flow. For example, the Board instructed the Foundation to dispose of unneeded supplies and other material, thereby reducing the Foundation's expenditures for storage rental. It also froze and reduced some Foundation salaries indefinitely. Further, the Board began requiring its treasurer to receive weekly reports of receipts and disbursements to better allow the Board to review and control the Foundation's cash flow. We believe that these actions should help to reduce the Foundation's expenditures and to enhance oversight and direction by the Board.

We are resuming our audit of the Foundation's 1990 financial statements and will shortly begin our audit of the 1991 statements. Those audits will address the issues discussed in this letter and contain additional recommendations, if appropriate. Copies of those audits will be made available to you when completed.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we will not distribute it until 30 days from its date. At that time, we will make it available to interested parties.

If you or your staff have any questions or require additional information on the matters discussed in this report, please contact me at (202) 275-9489 or Rosemary Jellish, Assistant Director, at (202) 512-6920.

DAVID L. CLARK,
*Director, Legislative Reviews and Audit Oversight.*

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of New York. 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. OWENS] that the House suspend the rules and pass the bill, H.R. 6049.

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.

## CONFERENCE REPORT ON H.R. 5482, VOCATIONAL REHABILITATION ACT AMENDMENTS OF 1992

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 5482) to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes.

[1] Congressional Award Program: Problems at the National Level Must Be Solved If the Program Is To Progress (GAO/AFMD-89-14, November 14, 1988) and Financial Audit: Congressional Award Foundation Financial Statements for 1989 (GAO/AFMD-91-25, April 30, 1991).

(For conference report and statement, see proceedings of the House of Thursday, October 1, 1992.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS of New York. 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. 5482.

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

There was no objection.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge approval of the conference report to H.R. 5482, that reauthorizes the Rehabilitation Act of 1973. This bill represents a bipartisan effort to address specific needs that have come to our attention during this legislative process. Although this act provided many individuals with the opportunity to become independent and self-sufficient taxpayers, we must face the painful reality that even with the act in place, the unemployment rate among individuals with disabilities is staggering. This legislation enabled us to make significant inroads into what has been a legacy of employment discrimination. Changes were also made and new initiatives added to advance the cause of consumer empowerment and to facilitate and maximize opportunities for people with disabilities in order that they may have full control over their lives.

I am pleased that the House and Senate have reached agreement on the issues addressed by this bill. H.R. 5482 creates partnerships between providers and consumers to ensure a more consumer-driven system; rigorously changes language and references that inadvertently impose stigma and stereotype; increases the range of eligible services; facilitates greater participation of minorities by preparing them for careers in vocational rehabilitation, independent living, and related services; and bridges the critical transition from school to employment and independent community life.

The progressive legislation before the House is the result of lengthy negotiations, compromises, and hard work by both the House and Senate. I would like to thank Congressman BALLENGER, the ranking minority member, for his assistance during this process, as well as his outstanding staff member, Sally Lovejoy. Also, special thanks for the support of subcommittee members. I want to thank my staff and full committee staff member Alan Lovesee for their excellent work. Additionally, I wish to acknowledge the contributions made by many of the organizations working in the field of rehabilitation and disability policy. We can be proud of this bill for it represents our continued commitment to the empowerment of individuals with disabilities.

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

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

Mr. Speaker, I rise in strong support of this conference report which will improve vocational rehabilitation services to individuals with disabilities and ensure that such services will be provided with increased consumer control and provide better accountability to the programs being funded.

The Vocational Rehabilitation Act is the only program that provides comprehensive rehabilitation services to individuals with disabilities that enable them to seek employment and find a job. It is a program that has been highly successful in providing job opportunities to individuals with disabilities by making them more independent and productive taxpaying citizens.

To build upon this investment and its return and to move toward implementing many of the provisions required by the Americans with Disabilities Act, this conference report makes several changes which will increase access to this program through improved eligibility requirements, increase consumer control and choices, and improve rehabilitation services for individuals with the most severe disabilities.

I am particularly pleased to see that provisions of my bill, H.R. 4493, the Individuals with Disabilities Transportation Act, were included in this conference agreement as a demonstration program so that individuals with disabilities who have jobs, are seeking jobs, or who need vocational rehabilitation services, will have affordable, accessible transportation in order to keep and maintain employment. Workers who are disabled and choose to compete in the marketplace are often at a disadvantage when it comes to locating affordable transportation to their jobs. For these individuals, the cost of transportation consumes a large portion of their paycheck and creates a disincentive for them to seek employment. While the Americans with Disabilities Act requires that accessible transportation be provided to people with disabilities where there is fixed route transportation or comparable paratransit, there is no such requirement if there is no established public transportation. These demonstration grants will go a long way toward filling that gap.

While there are many other significant changes made to this act which I will not elaborate on, I am very pleased that such a large and important reauthorization was accomplished in a bipartisan manner. I support this legislation and urge my colleagues to support its passage.

Mr. BALLENGER. Mr. Speaker, I rise today to support this conference agreement on H.R. 5482, the Vocational Rehabilitation Act Amendments of 1992. We have been able to work our a bill which makes major improvements in the programs under the Rehabilitation Act to provide employment opportunities to individuals with disabilities. This is a bipartisan bill which the administration supports and which the disability community is behind. It has taken almost 2 years of work by Chairman OWENS, Mr. GOODLING, myself, and Members of the other body to bring such a comprehensive bill to conclusion. This conference report makes significant changes to the current law by improving accountability in the State Grant Program, the largest program under the act, improving eligibility requirements, reducing the time between when an individual enters the rehabilitation process and when he finds a job, increasing consumer control and choice both in determining what job or career they pursue and what services are provided to reach their goal, providing better coordination between special education and vocational rehabilitation, and providing incentives for business to participate in the rehabilitation process.

This is a good bill that will strengthen our economy by returning more individuals with disabilities to work. I support this bill and urge my colleagues to support it as well.

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

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER, pro tempore (Mr. RICHARDSON). The question is in the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and agree to the conference report on the bill, H.R. 5482.

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.

## MAKING CORRECTIONS IN ENROLLMENT OF H.R. 5482, VOCATIONAL REHABILITATION ACT AMENDMENTS OF 1973

Mr. OWENS of New York. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 371) to make corrections in the enrollment of the bill, H.R. 5482, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

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

Mr. GOODLING. Mr. Speaker, reserving the right to object, I take this time to yield to the gentleman from New

York [Mr. OWENS] to explain his request.

Mr. OWENS of New York. Mr. Speaker, if the gentleman will yield this is a concurrent resolution which makes a technical correction to the statutory language for the conference report that we have just passed. It is noncontroversial, and I believe it has been agreed to by all parties.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, this correction has been cleared by the majority.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 371

*Resolved by the House of Representatives (the Senate concurring)*, That, in the enrollment of the bill (H.R. 5482) to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes, the Clerk of the House of Representatives shall make corrections in the bill as follows:

(1) In section 308 of the bill, strike subsection (e) of the section and insert the following:

(e) RELATIONSHIP TO SPECIAL DEMONSTRATION PROGRAMS.—Section 311 (29 U.S.C. 777a), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(e) EDUCATIONAL AND VOCATIONAL REHABILITATION DEMONSTRATION PROJECTS REGARDING LOW-FUNCTIONING.—

"(1) GRANTS.—The Commissioner may make grants to public or private institutions to pay for the cost of developing special projects and demonstration projects to address the general education, counseling, vocational training, work transition, supported employment, job placement, followup, and community outreach needs of individuals who are either low-functioning and deaf or low-functioning and hard-of-hearing. Such projects shall provide educational and vocational rehabilitation services that are not otherwise available in the region involved and shall maximize the potential of such individuals, including individuals who are deaf and have additional severe disabilities.

"(2) MONITORING.—The Commissioner shall monitor the activities of the recipients of grants under this subsection to ensure that the recipients carry out the projects in accordance with paragraph (1), that the recipients coordinate the projects as described in paragraph (3), and that information about innovative methods of service delivery developed by such projects is disseminated.

"(3) ANNUAL REPORT.—The Commissioner shall prepare and submit an annual report to Congress that includes an assessment of the manner in which the recipients carrying out the projects coordinate the projects with projects carried out by other public or nonprofit agencies serving individuals who are deaf, to expand or improve services for such individuals.".

(f) RELATIONSHIP TO SPECIAL DEMONSTRATION PROGRAMS.—Section 311 (29 U.S.C. 777a), as amended by subsection (e), is amended by adding at the end the following new subsection:

"(f)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund special demonstration programs, projects and activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund programs, projects, and activities described in section 802.

"(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII.".

(2) In section 801 of the bill:

(A) Redesignate subsection (b) as subsection (c).

(B) Insert after subsection (a) the following subsection.

(b) ACCOUNT.—There shall be established an account with a distinct designated budget account identification code number in the President's budget, for activities under title VIII of the Rehabilitation Act of 1973. Funding for such activities shall be available only to such extent as is provided, or in such amounts as are provided, in appropriations Acts. Such account shall be separate and distinct from the accounts for all other activities under titles I through VII of such Act.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## NATIVE AMERICAN LANGUAGES ACT OF 1992

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2044) to assist Native Americans in assuring the survival and continuing vitality of their languages, as amended.

The Clerk read as follows:

S. 2044

*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, other than section 4, may be cited as the "Native American Languages Act of 1992".

**SEC. 2. GRANT PROGRAM.**

The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended by inserting before section 804 the following:

**SEC. 803C. GRANT PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.**

"(a) AUTHORITY TO AWARD GRANTS.—The Secretary shall award a grant to any agency or organization that is—

"(1) eligible for financial assistance under section 803(a); and

"(2) selected under subsection (c);

to be used to assist Native Americans in ensuring the survival and continuing vitality of native American languages.

(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—The purposes for which each grant awarded under subsection (a) may be used include, but are not limited to—

"(1) the establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the transfer of Native American language skills from one generation to another;

"(2) the establishment of a project to train Native Americans to teach a Native American language to others or to enable them to serve as interpreters or translators of such language;

"(3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of a Native American language;

"(4) the establishment or support of a project to train Native Americans to produce or participate in a television or radio program to be broadcast in a Native American language;

"(5) the compilation, transcription, and analysis of oral testimony to record and preserve a Native American language; and

"(6) the purchase of equipment (including audio and video recording equipment, computers, and software) required to conduct a Native American language project.

"(c) APPLICATIONS.—For the purpose of making grants under subsection (a), the Secretary shall select applicants from among agencies and organizations described in such subsection on the basis of applications submitted to the Secretary at such time, in such form, and containing such information as the Secretary shall require, but each application shall include at a minimum—

"(1) a detailed description of the current status of the Native American language to be addressed by the project for which a grant under subsection (a) is requested, including a description of existing programs and projects, if any, in support of such language;

"(2) a detailed description of the project for which such grant is requested;

"(3) a statement of objectives that are consonant with the purpose described in subsection (a);

"(4) a detailed description of a plan to be carried out by the applicant to evaluate such project, consonant with the purpose for which such grant is made;

"(5) if appropriate, an identification of opportunities for the replication of such project or the modification of such project for use by other Native Americans; and

"(6) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons.

"(d) PARTICIPATING ORGANIZATIONS.—If a tribal organization or other eligible applicant decides that the objectives of its proposed Native American language project would be accomplished more effectively through a partnership arrangement with a school, college, or university, the applicant shall identify such school, college, or university as a participating organization in the application submitted under subsection (c).

"(e) LIMITATIONS ON FUNDING.—

"(1) SHARE.—Notwithstanding any other provision of this title, a grant made under subsection (a) may not be expended to pay more than 80 percent of the cost of the project that is assisted by such grant. Not less than 20 percent of such cost—

"(A) shall be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

"(B)(i) may be provided from any private or non-Federal source; and

"(ii) may include funds (including interest) distributed to a tribe—

"(I) by the Federal Government pursuant to the satisfaction of a claim made under Federal law;

"(II) from funds collected and administered by the Federal Government on behalf of such tribe or its constituent members; or

"(III) by the Federal Government for general tribal administration or tribal development under a formula or subject to a tribal budgeting priority system, such as, but not limited to, funds involved in the settlement of land or other judgment claims, severance or other royalty payments, or payments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or tribal budget priority system.

"(2) DURATION.—The Secretary may make grants made under subsection (a) on a 1-year, 2-year, or 3-year basis.

"(f) ADMINISTRATION.—(1) The Secretary shall carry out this section through the Administration for Native Americans.

"(2)(A) Not later than 180 days after the effective date of this section, the Secretary shall appoint a panel of experts for the purpose of assisting the Secretary to review—

"(i) applications submitted under subsection (a);

"(ii) evaluations carried out to comply with subsection (c)(4); and

"(iii) the preservation of products required by subsection (c)(5).

"(B) Such panel shall include, but not be limited to—

"(i) a designee of the Institute of American Indian and Alaska Native Culture and Arts Development;

"(ii) a designee of the regional centers funded under section 5135 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3215);

"(iii) representatives of national, tribal, and regional organizations that focus on Native American language, or Native American cultural, research, development, or training; and

(iv) other individuals who are recognized for their expertise in the area of Native American language.

Recommendations for appointment to such panel shall be solicited from Indian tribes and tribal organizations.

"(C) The duties of such panel include—

"(i) making recommendations regarding the development and implementation of regulations, policies, procedures, and rules of general applicability with respect to the administration of this section;

"(ii) reviewing applications received under subsection (c);

"(iii) providing to the Secretary a list of recommendations for the approval of such applications—

"(I) in accordance with regulations issued by the Secretary; and

"(II) the relative need for the project; and

"(iv) reviewing evaluations submitted to comply with subsection (c)(4).

"(D)(i) Subject to clause (ii), a copy of the products of the Native American language project for which a grant is made under subsection (a)—

"(I) shall be transmitted to the Institute of American Indian and Alaska Native Culture and Arts Development; and

"(II) may be transmitted, in the discretion of the grantee, to national and regional repositories of similar material;

for preservation and use consonant with their respective responsibilities under other Federal law.

"(ii) Based on the Federal recognition of the sovereign authority of Indian tribes over all aspects of their cultures and language and except as provided in clause (iii), an Indian tribe may make a determination—

"(I) not to transmit copies of such products under clause (i) or not to permit the redistribution of such copies; or

"(II) to restrict in any manner the use or redistribution of such copies after transmission under such clause.

"(iii) Clause (ii) shall not be construed to authorize Indian tribes—

"(I) to limit the access of the Secretary to such products for purposes of administering this section or evaluating such products; or

"(II) to sell such products, or copies of such products, for profit to the entities referred to in clause (i).".

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by inserting "803C" after "803A" each place it appears; and

(2) by adding at the end the following:

"(f) There are authorized to be appropriated to carry out section 803C, $2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997.".

**SEC. 4. NATIVE AMERICANS EDUCATIONAL ASSISTANCE ACT.**

(a) SHORT TITLE.—This section may be cited as the "Native Americans Educational Assistance Act".

(b) AGREEMENT TO CARRY OUT DEMONSTRATION PROJECT.—The Secretary of the Interior is authorized to enter into an agreement with a nonprofit captioning agency engaged in manufacturing and distributing captioning decoders, for the purpose of carrying out a demonstration project to determine the effectiveness of captioned educational materials as an educational tool in schools operated by the Bureau of Indian Affairs.

(c) REPORT.—Prior to the expiration of the 12-month period following the date of the agreement entered into pursuant to subsection (b), the Secretary of the Interior shall report to the Congress the results of the demonstration project carried out pursuant to such agreement, together with recommendations of the Secretary.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentlemen from California [Mr. MARTINEZ].

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks, and include extraneous matter, on the Senate bill, S. 2044, now being considered.

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

There was no objection.

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

Mr. Speaker, I come before you today with a bill of great importance to the native American Indian, our Nation and to the international community. The Native American Languages Act of 1992 is an effort to stem the rapid extinction of native American languages. It is the missing connection that will enable the American Indian to journey out of poverty with respect and pride for their heritage.

Native American languages are near extinction in the United States. Studies suggest that at one time several thousand distinct Indian languages existed in what is now America. Today that number has dwindled to approximately 150 Indian languages.

As chairman of the Subcommittee on Human Resources I have had the opportunity to address the problems facing youth, families, and the elderly. Faced with poverty, high unemployment, and chronic alcoholism, many tribes have realized the importance that culture and native languages play in the well being of native people.

This resurgence was enhanced with the passage of the Native American Languages Act in 1990, which declared it the right of native Americans to use their languages and encouraged its practice, development, and promotion in all settings. The act recognized that traditional languages are a complex part of the ethnic and cultural identities of native Americans and that the survival and distinction of a culture may be dependent upon language preservation. Support has been shown from organizations such as U.S. English, who welcome the cultural wealth indigenous languages bring to our Nation. Yet, despite this change in attitude and policy, there is no comprehensive effort to maintain what remains of our native Indian languages.

The early 1900's marked the U.S. Government's aggressive attack on the languages and culture of the American Indian. Education was seen as the method to civilize and assimilate the "red man". Children were often separated from their families and sent great distances to schools where speaking their native languages meant abuse and humiliation. So successful was the United States antinative language policy that many native languages may not survive the next century. Even today many of these attitudes persist.

Historical events and prejudices endangered the survival of native American languages and the diverse cultures they represent. Comprising less than 1 percent of the population in the United States, native Americans have not enjoyed the support, other ethnic groups have benefited from, in the preservation of their cultural identities. Unlike other languages, which have flourished through strong ethnic ties and legislative representation, the deterioration of native American culture will continue without the passage of this bill.

The preservation of any culture lies in the recording of, and the honoring of, the American Indian's traditional rites and languages. Tribal languages are vital links in the preservation of traditional rites and customs and are fundamental to the identity of native Americans. Without native languages many tribal and village members have found it impossible to bridge two cultures.

Native American students have the highest dropout rate in the Nation and are more than two times likely to commit suicide. Reports indicate that as much as 60 percent of all Indian students do not finish high school and less than one-half of 1 percent obtain professional degrees. The high incidence of teen suicide, chronic alcoholism, and chemical dependency within native American communities is testimony to the disassociation experienced by many tribal members. Studies link these chronic problems to the loss of self identity and a lack of cultural awareness.

Studies also show that only 2 of the 20 native languages in Alaska are still being learned by children. In California, indigenous languages are disappearing at a rate of 6 per year. As with many of the native languages in the United States, the few remaining fluent speakers are elderly. In some cases, less than 10 elderly speakers remain. Extinction for a language is as close as the death of the last elderly member. With so many native tribes experiencing a gap between elderly native speakers and nonnative speaking native children, it is little wonder that this tragedy persists.

These statistics highlight the need for this legislation. Community language programs can span the language gap between generations and provide the basis for cultural and community growth.

Today's innovative language education programs are evidence of the commitment on the part of native American communities to overcome the ills prevalent to reservation life. Existing language programs encourage the maintenance of native American languages as a way of strengthening Indian culture and ultimately the Indian family. However, problems remain. Inadequate funding levels force many tribal governments to choose between economic and social development. According to the National Park Service, 1992 applications for language preservation programs far exceed the funding available. Figures show 97 of the 183 applications submitted were for language related programs and of these 97 requests only 19 were funded.

The Native American Languages Act of 1992, would assist native Americans in establishing the mechanisms to secure the survival of their languages.

Among its provisions, tribal governments and other native American organizations presently under the Native Americans Programs Act could apply for grants to establish native language training programs, to develop written materials, to compile oral records, to establish community language programs. It would be administrated by the administration for native Americans with grants awarded on a competitive basis.

Native Americans are a minority in crisis. Languages once associated with derision, are now recognized not only for the cohesiveness and self worth they bring to native American culture, but for the historical value to our Nation's future generations. I urge you to support the Native American Languages Act 1992.

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

Mr. CAMPBELL of Colorado. Mr. Speaker, the traditional languages of native American people are an integral part of their culture and identity. They provide a means for elaborating stories, literature, religion, and the rich history and traditional ways of life. The ability of Indian communities to preserve their traditional languages will allow them to effectively preserve their traditional stories, literatures, and oral history. To lose the diversity and vibrant history of our many Indian nations, is to lose a vital part of the history of this country.

Senate bill 2044, introduced by Senator DANIEL INOUYE, entitled the "Native American Languages Act of 1991" authorizes the administration for native Americans to make grants to Indian tribal governments and other native American organizations. The bill amends the Native Programs Act of 1974 to authorize eligible organizations to receive grants through fiscal year 1993. I am fully supportive of this grant process. The ANA has recently been rated as one of the most effective Government organizations.

As the only native American Member of Congress, I have been involved in most all legislation where the Indian community is involved. I am in full support of the Native American Languages Act. Language in all cultures is paramount to the survival and vitality of one's culture. To lose the ability to communicate in the traditional languages further compromises the effectiveness of passing on the oral history of traditional ways of life.

Many of the problems that Indian communities are confronted with—alcohol and drug abuse, suicide, high dropout rates—are directly related to one's loss of identity. A revival of language programs that emphasize the native languages is an important step to bringing individuals and communities closer to their true identities and the vibrant culture they share.

Mr. CAMPBELL of Colorado. Mr. Speaker, I rise to voice my support of S. 2481, the Indian Health Amendments of 1992. The reauthorization of this important piece of legislation will ensure the continued support for Indian health care services to all native Americans, residing on reservations or in large urban areas, until the year 2000.

This legislation incorporates 60 objectives developed by the U.S. Department of Health and Human Services that serve two primary goals. First, they will provide a measuring device for comparing the current health status of native Americans to their health status in the year 2000. Second, the objectives will serve to provide valuable resource data for the Indian health care improvement fund.

Currently, all statistics show that the native American population is the most at risk group in the country, suffering from the highest mortality rate of all population groups in the United States and facing alcohol, diabetes, tuberculosis, and suicide rates much higher than the national average.

After much debate in both Houses of Congress, the Indian health amendments before us today incorporate legislation I have introduced this Congress that addresses the high occurrence of fetal alcohol syndrome in native American infants who are 20 times more likely to be born with fetal alcohol syndrome than other U.S. infants. In order to confront these and other monumental challenges, a unilateral approach to health care must be undertaken that focuses on prevention, education, and effective treatment programs. Extreme cultural contrasts also contribute to the unique challenge facing Indian leaders and health experts in their search for an effective and efficient health model.

Although native Americans represent the smallest population group in the United States, the resources needed to effectively address the plethora of health issues are among the greatest. With the passage of the Snyder Act in 1921, Congress formally obligated itself to provide quality health care to the native American population and should make a concerted effort this day to uphold that trust responsibility.

In spite of the circumstances that native American communities are facing, there is hope. For example UNITY [United National Indian Tribal Youth, Inc.], a national organization comprised of 45 native American youth councils—has designated sobriety and heritage as key paths in the journey to the year 2000. It is groups like this that will propel a renewed generation of Indian people toward a healthier tomorrow.

Again I would urge my colleagues to support passage of S. 2481, the Indian Health Amendments of 1992 to keep Indian health alive.

Mr. CAMPBELL of Colorado. Mr. Speaker, I rise in support of House Concurrent Resolution 367. I have been asked by the Morningstar Foundation, a nationally recognized native American advocacy group, to support its efforts for a Columbus Day concert on the Capitol Grounds.

House Concurrent Resolution 367 would authorize the presentation of the program on the Capitol Grounds. The program, entitled "Native Voices: The Next 500 Years," will feature performances by traditional native American dancers, traditional and contemporary musical performances, and readings and poetry. On the occasion of the quincentenary of Columbus' arrival in the Americas, the program will honor native American people and celebrate the rich, vibrant, traditional ways that have been passed on for generations.

As you know, Congress has declared 1992 the "Year of the American Indian" and the "National Year of Reconciliation Between Indians and Non-Indians" to commemorate native American culture and to acknowledge the significant contributions native American people have given to the history of this country.

From the Persian Gulf war to the Navajo code talkers of the Second World War, native American men and women have answered our country's call when conflict has occurred, and have served gallantly and honorably. In the arts, traditional native American artists and

performers have preserved traditional forms of entertainment and have brought world recognition to the traditional ways. Further, in athletics, many of us have had the opportunity to represent this country at the highest level of competition.

As the only American Indian serving in this body, I would ask the rest of my colleagues to support House Concurrent Resolution 367 to ensure that our native voices are heard.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of S. 2044, the Native American Languages Act of 1992. This bill is extremely important to my native constituents in Alaska. We are in danger of losing the continuance of our native languages and I am extremely pleased with the junior Senator from Alaska in the other body for his part in introducing similar legislation.

This bill proposes to appropriate $5 million in fiscal year 1993 and such sums as necessary for fiscal years 1994, 1995, 1996, and 1997. Programs will be established to train native Americans to teach native languages to others and to serve as interpreters or translators. This bill also proposes to establish and support community language programs to bring older and younger native Americans together to facilitate and encourage the transfer of language skills from one generation to another. We already have a couple of programs in some communities in Alaska and I am delighted that this bill will establish programs to further the continuance of native languages. I wholeheartedly support S. 2044 and urge my colleagues to pass this important bill.

Mr. GOODLING. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLTER). The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the Senate bill, S. 2044, 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.

## RELATING TO CONSIDERATION OF SENATE AMENDMENT TO H.R. 5194, JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 AMENDMENTS

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 594) relating to the consideration of the Senate amendment to H.R. 5194.

The Clerk read as follows:

H. RES. 594

*Resolved*, That upon the adoption of this resolution the bill (H.R. 5194) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with an amendment as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. FINDINGS AND DECLARATION OF PURPOSE.**

(a) FINDINGS.—Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601(a)) is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (6), (7), (8), (9), and (10), respectively;

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) recent trends show an upsurge in arrests of adolescents for murder, assault, and weapon use;

"(3) the small number of youth who commit the most serious and violent offenses are becoming more violent;";

(3) in paragraph (4), as redesignated by paragraph (1), by inserting "prosecutorial and public defender offices," after "juvenile courts,";

(4) by striking "and" at the end of paragraph (9), as redesignated by paragraph (1);

(5) by striking the period at the end of paragraph (10), as redesignated by paragraph (1), and inserting ";"; and

(6) by adding at the end the following new paragraphs:

"(11) emphasis should be placed on preventing youth from entering the juvenile justice system to begin with; and

"(12) the incidence of juvenile delinquency can be reduced through public recreation programs and activities designed to provide youth with social skills, enhance self esteem, and encourage the constructive use of discretionary time.".

(b) PURPOSE.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "delinquency" and inserting "justice and delinquency prevention";

(B) in paragraph (2) by striking "agencies, institutions, and individuals in developing and implementing juvenile delinquency programs" and inserting "nonprofit juvenile justice and delinquency prevention programs";

(C) by striking "and" at the end of paragraph (7);

(D) by redesignating paragraph (8) as paragraph (9);

(E) by inserting after paragraph (7) the following new paragraph:

"(8) to strengthen families in which juvenile delinquency has been a problem;";

(F) by striking the period at the end of paragraph (9), as redesignated by subparagraph (D), and inserting a semicolon; and

(G) by adding at the end the following new paragraphs:

"(10) to assist State and local governments in improving the administration of justice and services for juveniles who enter the system; and

"(11) to assist States and local communities to prevent youth from entering the justice system to begin with."; and

(2) in subsection (b)—

(A) by striking "maintaining and strengthening the family unit" and inserting "preserving and strengthening families";

(B) by striking "and (4)" and inserting "(4)"; and

(C) by inserting "; (5) to encourage parental involvement in treatment and alternative disposition programs; and (6) to provide for coordination of services between State, local, and community-based agencies and to promote interagency cooperation in providing such services" before the period at the end.

(c) DEFINITIONS.—Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) by amending paragraph (16) to read as follows:

"(16) the term 'valid court order' means a court order given by a juvenile court judge to a juvenile—

"(A) who was brought before the court and made subject to such order;

"(B) who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States;

"(C) with respect to whom an appropriate public agency (other than a court or law enforcement agency), before the issuance of such order—

"(i) reviewed the behavior of such juvenile and the circumstances under which such juvenile was brought before the court and made subject to such order;

"(ii) determined the reasons for the behavior that caused such juvenile to be brought before the court and made subject to such order;

"(iii) determined that all dispositions (including treatment), other than placement in a secure detention facility or a secure correctional facility, have been exhausted or are clearly inappropriate; and

"(iv) submitted to the court a written report stating the results of the review conducted under clause (i) and the determinations made under clauses (ii) and (iii);";

(2) by striking "and" at the end of paragraph (17);

(3) by striking the period at the end of paragraph (18) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

"(19) the term 'comprehensive and coordinated system of services' means a system that—

"(A) ensures that services and funding for the prevention and treatment of juvenile delinquency are consistent with policy goals of preserving families and providing appropriate services in the least restrictive environment so as to simultaneously protect juveniles and maintain public safety;

"(B) identifies, and intervenes early for the benefit of, young children who are at risk of developing emotional or behavioral problems because of physical or mental stress or abuse, and for the benefit of their families;

"(C) increases interagency collaboration and family involvement in the prevention and treatment of juvenile delinquency; and

"(D) encourages private and public partnerships in the delivery of services for the prevention and treatment of juvenile delinquency;

"(20) the term 'gender-specific services' means services designed to address needs unique to the gender of the individual to whom such services are provided;

"(21) the term 'home-based alternative services' means services provided to a juvenile in the home of the juvenile as an alternative to incarcerating the juvenile, and includes home detention;

"(22) the term 'jail or lockup for adults' means a locked facility that is used by a State, unit of local government, or any law enforcement authority to detain or confine adults—

"(i) pending the filing of a charge of violating a criminal law;

"(ii) awaiting trial on a criminal charge; or

"(iii) convicted of violating a criminal law; and

"(23) the term 'nonprofit organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.".

**SEC. 2. JUVENILE JUSTICE AND DELINQUENCY PREVENTION.**

(a) OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 (b)) is amended by amending the third sentence to read as follows: "The Administrator shall have the same reporting relationship with the Attorney General as the directors of other offices and bureaus within the Office of Justice Programs have.".

(b) PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS.—Section 202 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612) is amended—

(1) in subsection (b) by striking "prescribes for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376";

(2) in subsection (c) by striking "Act" and inserting "title"; and

(3) in subsection (d) by striking "prescribed for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376".

(c) CONCENTRATION OF EFFORT.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by inserting "(1)" after "(a)"; and

(ii) by striking "implement overall policy and develop objectives and priorities" and inserting "develop objectives, priorities, and a long-term plan, and implement overall policy and a strategy to carry out such plan,"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The plan described in paragraph (1) shall—

"(i) contain specific goals and criteria for making grants and contracts, for conducting research, and for carrying out other activities under this title; and

"(ii) provide for coordinating the administration programs and activities under this title with the administration of all other Federal juvenile delinquency programs and activities, including proposals for joint funding to be coordinated by the Administrator.

"(B) The Administrator shall review the plan described in paragraph (1) annually, revise the plan as the Administrator considers appropriate, and publish the plan in the Federal Register—

"(i) not later than 240 days after the date of enactment of this paragraph, in the case of the initial plan required by paragraph (1); and

"(ii) except as provided in clause (i), in the 30-day period ending on October 1 of each year.";

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (5); and

(B) by striking the period at the end of paragraph (6) and inserting "; and";

(3) by adding at the end the following new paragraph:

"(7) not later than 1 year after the date of the enactment of this paragraph, issue model standards for providing health care to incarcerated juveniles."; and

(4) by striking subsections (f) and (g).

(d) COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "the Director of the Office of Community Services" and all that follows through the period and inserting "the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Office of National Drug Control Policy, the Director of the ACTION Agency, the Commissioner of Immigration and Naturalization, such other officers of Federal agencies who hold significant decision making authority as the President may designate, and individuals appointed under paragraph (2)."; and

(B) by amending paragraph (2) to read as follows:

"(2)(A) Nine members shall be appointed, without regard to political affiliation, to the Council in accordance with this paragraph from among individuals who are practitioners in the field of juvenile justice and who are not officers or employees of the United States.

"(B)(i) Three members shall be appointed by the Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives.

"(ii) Three members shall be appointed by the majority leader of the Senate, after consultation with the minority leader of the Senate.

"(iii) Three members shall be appointed by the President.

"(C)(i) Of the members appointed under each of clauses (i), (ii), and (iii)—

"(I) 1 shall be appointed for a term of 1 year;

"(II) 1 shall be appointed for a term of 2 years; and

"(III) 1 shall be appointed for a term of 3 years;

as designated at the time of appointment.

"(ii) Except as provided in clause (iii), a vacancy arising during the term for which an appointment is made may be filled only for the remainder of such term.

"(iii) After the expiration of the term for which a member is appointed, such member may continue to serve until a successor is appointed.";

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) in the first sentence by inserting "(in cooperation with State and local juvenile justice programs) all Federal programs and activities that detain or care for unaccompanied juveniles," after "delinquency programs";

(C) in the second sentence—

(i) by inserting "shall examine how the separate programs can be coordinated among Federal, State, and local governments to better serve at-risk children and juveniles and" after "Council"; and

(ii) by inserting "and all Federal programs and activities that detain or care for unaccompanied juveniles" before the period; and

(D) by adding at the end the following new paragraph:

"(2) In addition to performing their functions as members of the Council, the members appointed under subsection (a)(2) shall collectively—

"(A) make recommendations regarding the development of the objectives, priorities, and the long-term plan, and the implementation of overall policy and the strategy to carry out such plan, referred to in section 204(a)(1); and

"(B) not later than 180 days after the date of the enactment of this paragraph, submit such recommendations to the Administrator, the Chairman of the Committee on Education and Labor of the House of Representatives, and the Chairman of the Committee on the Judiciary of the Senate."; and

(3) in subsection (f)—

(A) by inserting "Members appointed under subsection (a)(2) shall serve without compensation." after "(f)"; and

(B) by striking "who are employed by the Federal Government full time".

(e) ANNUAL REPORT.—Section 207(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617(1)) is amended—

(1) in subparagraph (D)—

(A) by inserting "(including juveniles treated as adults for purposes of prosecution)" after "juveniles"; and

(B) by striking "and" at the end;

(2) in subparagraph (E) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) the educational status of juveniles, including information relating to learning disabilities, failing performance, grade retention, and dropping out of school.".

(f) FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS.—

(1) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 221(b)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5613(b)(2)) is amended—

(A) in the first sentence by striking "existence" and inserting "experience"; and

(B) in the second sentence by striking "section 291(c)(1)" and inserting "section 299(c)(1)".

(2) ALLOCATION.—Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—

(A) by striking "allotted" each place it appears and inserting "allocated" and striking "allotment" each place it appears and inserting "allocation";

(B) in subsection (a)—

(i) in paragraph (2)(A)—

(I) by striking "part D" and inserting "parts D and E";

(II) by inserting "or such greater amount, up to $400,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$325,000,"; and

(III) by inserting ", or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992," after "$75,000";

(ii) in paragraph (2)(B)—

(I) by inserting "or such greater amount, up to $600,000, as is available to be allocated if appropriations have been enacted and made available to carry out parts D and E in the full amounts authorized by section 299(a)(1) and (3)" after "$400,000,"; and

(II) by inserting ", or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$100,000"; and

(iii) in paragraph (3) by striking "1988" each place it appears and inserting "1992"; and

(C) in subsection (c)—

(i) in the first sentence by striking "and evaluation" and inserting ", evaluation, and one full-time staff position"; and

(ii) in the second sentence by striking "7½ per centum" and inserting "10 percent".

(3) STATE PLANS.—(A) Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(i) in subsection (a)—

(I) in the second sentence by striking "programs, and the State" and inserting "programs and challenge activities subsequent to State participation in part E. The State";

(II) in paragraph (1) by striking "section 291(c)(1)" and inserting "section 299(c)(1)";

(III) by amending paragraph (3) to read as follows:

"(3) provide for an advisory group, which—

"(A) shall consist of not less than 15 and not more than 33 members appointed by the chief executive officer of the State—

"(i) which members have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice;

"(ii) which members include—

"(I) at least 1 locally elected official representing general purpose local government;

"(II) representatives of law enforcement and juvenile justice agencies, including juvenile and family court judges, prosecutors, counsel for children and youth, and probation workers;

"(III) representatives of public agencies concerned with delinquency prevention or treatment, such as welfare, social services, mental health, education, special education, recreation, and youth services;

"(IV) representatives of private nonprofit organizations, including persons with a special focus on preserving and strengthening families, parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children;

"(V) volunteers who work with delinquents or potential delinquents;

"(VI) youth workers involved with programs that are alternatives to incarceration, including programs providing organized recreation activities;

"(VII) persons with special experience and competence in addressing problems related to school violence and vandalism and alternatives to suspension and expulsion; and

"(VIII) persons with special experience and competence in addressing problems related to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence;

"(iii) a majority of which members (including the chairperson) shall not be full-time employees of the Federal, State, or local government;

"(iv) at least one-fifth of which members shall be under the age of 24 at the time of appointment; and

"(v) at least 3 members who have been or are currently under the jurisdiction of the juvenile justice system;

"(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;

"(C) shall be afforded the opportunity to review and comment, not later than 30 days after their submission to the advisory group, on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1);

"(D) shall, consistent with this title—

"(i) advise the State agency designated under paragraph (1) and its supervisory board;

"(ii) submit to the chief executive officer and the legislature of the State at least annually recommendations regarding State compliance with the requirements of paragraphs (12), (13), and (14) and with progress relating to challenge activities carried out pursuant to part E; and

"(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and

"(E) may, consistent with this title—

"(i) advise on State supervisory board and local criminal justice advisory board composition;

"(ii) review progress and accomplishments of projects funded under the State plan.";

(IV) in paragraph (8)—

(aa) by inserting "(A)" after "(8)";

(bb) by striking "(A) an" and inserting "(i) an";

(cc) by striking "(B)" and inserting "(ii)";

(dd) by striking "(C)" and inserting "(iii)";

(ee) by inserting "(including educational needs)" after "delinquency prevention needs" each place it appears; and

(ff) by adding at the end the following new subparagraphs:

"(B) contain—

"(i) an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services for females; and

"(ii) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

"(C) contain—

"(i) an analysis of services for the prevention and treatment of juvenile delinquency in rural areas, including the need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services; and

"(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

"(D) contain—

"(i) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

"(ii) a plan for providing needed mental health services to juveniles in the juvenile justice system;";

(V) in paragraph (9) by inserting "recreation," after "special education,";

(VI) by amending paragraph (10) to read as follows:

"(10) provide that not less than 75 percent of the funds available to the State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

"(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, specifically—

"(i) for youth who can remain at home with assistance: home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

"(ii) for youth who need temporary placement: crisis intervention, shelter, and aftercare; and

"(iii) for youth who need residential placement: a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

"(B) community-based programs and services to work with—

"(i) parents and other family members to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

"(ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and

"(iii) parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

"(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

"(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;

"(E) educational programs or supportive services for delinquent or other juveniles, provided equitably regardless of sex, race, or family income, designed to—

"(i) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including—

"(I) education in settings that promote experiential, individualized learning and exploration of academic and career options;

"(II) assistance in making the transition to the world of work and self-sufficiency;

"(III) alternatives to suspension and expulsion; and

"(IV) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education provides; and

"(ii) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

"(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

"(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

"(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

"(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

"(J) programs and projects designed to provide for the treatment of youths' dependence

on or abuse of alcohol or other addictive or nonaddictive drugs;

"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

"(i) a sense of safety and structure;

"(ii) a sense of belonging and membership;

"(iii) a sense of self-worth and social contribution;

"(iv) a sense of independence and control over one's life;

"(v) a sense of closeness in interpersonal relationships; and

"(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;

"(M) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(ii) assist in the provision by the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

"(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration; and

"(O) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families.";

(VII) in paragraph (12)(A) by inserting "or alien juveniles in custody," after "court orders,";

(VIII) in paragraph (13)—

(aa) by striking "regular", and

(bb) by inserting before the semicolon at the end "or with the part-time or full-time security staff (including management) or direct-care staff of a jail or lockup for adults";

(IX) in paragraph (14)—

(aa) by striking "; beginning after the five-year period following December 8, 1980,";

(bb) by striking "1993" and inserting "1997"; and

(cc) by striking "areas which" and all that follows through the end of the paragraph and inserting "areas that are in compliance with paragraph (13) and—

"(A)(i) are outside a Standard Metropolitan Statistical Area; and

"(ii) have no existing acceptable alternative placement available;

"(B) are located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation do not allow for court appearances within 24 hours, so that a brief (not to exceed 48 hours) delay is excusable; or

"(C) are located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel;";

(X) by amending paragraph (16) to read as follows:

"(16) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;"; and

(XI) in paragraph (17)—

(aa) by striking "and maintain the family units" and inserting "the families";

(bb) by striking "deliquency. Such" and inserting "delinquency (which"; and

(cc) by inserting "and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible)" before the semicolon;

(XII) by striking "and" at the end of paragraph (23);

(XIII) by striking the period at the end of paragraph (24) and inserting "; and"; and

(XIV) by adding at the end the following new paragraph:

"(25) provide an assurance that if the State receives under section 222 for any fiscal year an amount that exceeds 105 percent of the amount the State received under such section for fiscal year 1992, all of such excess shall be expended through or for programs that are part of a comprehensive and coordinated community system of services."; and

(ii) by amending subsection (c) to read as follows:

"(c)(1) Subject to paragraph (2), the Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

"(2) Failure to achieve compliance with the subsection (a)(12)(A) requirement within the 3-year time limitation shall terminate any State's eligibility for funding under this part for a fiscal year beginning before January 1, 1993, unless the Administrator determines that the State is in substantial compliance with the requirement, through achievement of deinstitutionalization of not less than 75 percent of such juveniles or through removal of 100 percent of such juveniles from secure correctional facilities, and has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time not exceeding 2 additional years.

"(3) If a State fails to comply with the requirements of subsection (a), (12)(A), (13), (14), or (23) in any fiscal year beginning after January 1, 1993—

"(A) subject to subparagraph (B), the amount allotted under section 222 to the State for that fiscal year shall be reduced by 25 percent for each such paragraph with respect to which noncompliance occurs; and

"(B) the State shall be ineligible to receive any allotment under that section for such fiscal year unless—

"(i) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with section 222 (c) and (d) and with section 223(a)(5)(C)) for that fiscal year only to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

"(ii) the Administrator determines, in the discretion of the Administrator, that the State—

"(I) has achieved substantial compliance with each such paragraph with respect to which the State was not in compliance; and

"(II) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time."; and

(iii) in subsection (d)—

(I) by inserting ", excluding funds the Administrator shall make available to satisfy the requirement specified in section 222(d)," after "section 222(a)";

(II) by striking "the purposes of subsection (a)(12)(A), subsection (a)(13), or subsection (a)(14)" and inserting "activities of the kinds described in subsection (a) (12)(A), (13), (14) and (23)"; and

(III) by striking "subsection (a)(12)(A) and subsection (a)(13)" and inserting "subsection (a) (12)(A), (13), (14) and (23)".

(B) Notwithstanding the amendment made by subparagraph (A)(ii), section 223(c)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(c)(3)), as in effect on the day prior to the date of enactment of this Act, shall remain in effect to the extent that it provides the Administrator authority to grant a waiver with respect to a fiscal year prior to a fiscal year beginning before January 1, 1993.

(f) NATIONAL PROGRAMS.—

(1) NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 241(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(d)(2)) is amended—

(A) in subsection (d)—

(i) by inserting "recreation and park personnel," after "special education personnel"; and

(ii) by inserting "prosecutors and defense attorneys," after "probation personnel,"; and

(B) in subsection (e)—

(i) in paragraph (5) by striking "prescribed for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376"; and

(ii) in paragraph (6) by striking "Act" and inserting "title".

(2) INFORMATION FUNCTION.—Section 242(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5652(3)) is amended by inserting "(including drug and alcohol programs and gender-specific programs)" after "treatment programs".

(3) RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS.—Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—

(A) by striking "The" and inserting "(a) The";

(B) in paragraph (1) by striking "maintain the family unit" and inserting "preserve families";

(C) by redesignating paragraphs (3), (4), (5), (6), (7), (8), and (9) as paragraphs (5), (6), (7), (8), (9), (10), and (11), respectively;

(D) by inserting after paragraph (2) the following new paragraphs:

"(3) establish or expand programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(i) encourage courts to develop and implement a continuum of post-adjudication re-

straints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(ii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

"(4) Encourage the development of programs which, in addition to helping youth take responsibility for their behavior, take into consideration life experiences which may have contributed to their delinquency when developing intervention and treatment programs;

"(5) encourage the development and establishment of programs to enhance the States' ability to identify chronic serious and violent juvenile offenders who commit crimes such as rape, murder, firearms offenses, gang-related crimes, violent felonies, and serious drug offenses;";

(E) in subparagraph (D) of paragraph (7), as redesignated by subparagraph (C), by inserting "(including the productive use of discretionary time through organized recreational" after "lawful activities";

(F) by striking "and" at the end of paragraph (10), as redesignated by subparagraph (C);

(G) by striking the period at the end of paragraph (11), as redesignated by subparagraph (C), and inserting "; and"; and

(H) by adding at the end the following new paragraphs and subsection:

"(12) support independent and collaborative research, research training, and consultation on social, psychological, educational, economic, and legal issues affecting children and families;

"(13) support research related to achieving a better understanding of the commission of hate crimes by juveniles and designed to identify educational programs best suited to prevent and reduce the incidence of hate crimes committed by juveniles; and

"(14) routinely collect, analyze, compile, publish, and disseminate uniform national statistics concerning—

"(A) all aspects of juveniles as victims and offenders;

"(B) the processing and treatment, in the juvenile justice system, of juveniles who are status offenders, delinquent, neglected, or abused; and

"(C) the processing and treatment of such juveniles who are treated as adults for purposes of the criminal justice system.

"(b) The Administrator shall make available to the public—

"(1) the results of evaluations and research and demonstration activities referred to in subsection (a)(8); and

"(2) the data and studies referred to in subsection (a)(9);

that the Administrator is authorized to disseminate under subsection (a).".

(3) TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.—Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(A) in paragraph (2) by inserting "(including juveniles who commit hate crimes)" after "offenders";

(B) in paragraph (3)—

(i) by inserting "prosecutors and defense attorneys," after "judges";

(ii) by striking "and" at the end;

(C) by striking the period at the end of paragraph (4) and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(5) provide technical assistance and training to assist States and units of general local government to adopt the model standards issued under section 204(b)(7).".

(4) ESTABLISHMENT OF TRAINING PROGRAM.—Section 245 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5659) is amended in the first sentence by inserting ", including methods and techniques specifically designed to prevent and reduce the incidence of hate crimes committed by juveniles" before the period .

(5) CURRICULUM FOR TRAINING PROGRAM.—Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660) is amended in the second sentence by inserting "and shall include training designed to prevent juveniles from committing hate crimes" before the period.

(6) SPECIAL STUDIES AND REPORTS.—Section 248 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5662) is amended—

(A) by striking "(a) Not later than 1 year after the date" and inserting "(a) PURSUANT TO 1988 AMENDMENTS.—(1) Not later than 1 year after the date";

(B) by striking "(1) to review" and inserting "(A) to review";

(C) by striking "(A) conditions" and inserting "(i) conditions";

(D) by striking "(B) the extent" and inserting "(ii) the extent";

(E) by striking "(2) to make" and inserting "(B) to make";

(F) by striking "(b)(1) Not later" and inserting "(2)(A) Not later";

(G) by striking "(A) how" and inserting "(i) how";

(H) by striking "(B) the amount" and inserting "(ii) the amount";

(I) by striking "(C) the extent" and inserting "(iii) the extent";

(J) by striking "(2)(A) for purposes" and inserting "(B)(i) for purposes";

(K) by striking "(B) For purposes" and inserting "(ii) for purposes";

(L) by striking "(c) Not later" and inserting "(3) Not later";

(M) by striking "subsection (a) or (b)" and inserting "paragraph (1) or (2)"; and

(N) by adding at the end the following new subsection:

"(b) PURSUANT TO 1992 AMENDMENTS.—(1) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to juveniles waived to adult court that reviews—

"(i) the frequency and extent to which juveniles have been transferred, certified, or waived to criminal court for prosecution during the 5-year period ending December 1992;

"(ii) conditions of confinement in adult detention and correctional facilities for juveniles waived to adult court; and

"(iii) sentencing patterns, comparing juveniles waived to adult court with juveniles who have committed similar offenses but have not been waived; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report (including a compilation of State waiver statutes) on the findings made in the study and recommendations to improve conditions for juveniles waived to adult court.

"(2) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to admissions of juveniles for behavior disorders to private psychiatric hospitals, and to other residential and nonresidential programs that serve juveniles admitted for behavior disorders, that reviews—

"(i) the frequency with which juveniles have been admitted to such hospitals and programs during the 5-year period ending December 1992; and

"(ii) conditions of confinement, the average length of stay, and methods of payment for the residential care of such juveniles; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve procedural protections and conditions for juveniles with behavior disorders admitted to such hospitals and programs.

"(3) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of gender bias within State juvenile justice systems that reviews—

"(i) the frequency with which females have been detained for status offenses (such as frequently running away, truancy, and sexual activity), as compared with the frequency with which males have been detained for such offenses during the 5-year period ending December 1992; and

"(ii) the appropriateness of the placement and conditions of confinement for females; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to combat gender bias in juvenile justice and provide appropriate services for females who enter the juvenile justice system.

"(4) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of the Native American pass-through grant program authorized under section 223(a)(5)(C) that reviews the cost-effectiveness of the funding formula utilized; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve the Native American pass-through grant program.

"(5) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of access to counsel in juvenile court proceedings that reviews—

"(i) the frequency with which and the extent to which juveniles in juvenile court proceedings either have waived counsel or have obtained access to counsel during the 5-year period ending December 1992; and

"(ii) a comparison of access to and the quality of counsel afforded juveniles charged in adult court proceedings with those of juveniles charged in juvenile court proceedings; and

"(B) submit to Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the

study and recommendations to improve access to counsel for juveniles in juvenile court proceedings.

"(6)(A) Not later than 180 days after the date of enactment of this subsection, the Administrator shall begin to conduct a study and continue any pending study of the incidence of violence committed by or against juveniles in urban and rural areas in the United States.

"(B) The urban areas shall include—

"(i) the District of Columbia;

"(ii) Los Angeles, California;

"(iii) Milwaukee, Wisconsin;

"(iv) Denver, Colorado;

"(v) Pittsburgh, Pennsylvania;

"(vi) Rochester, New York; and

"(vii) such other cities as the Administrator determines to be appropriate.

"(C) At least one rural area shall be included.

"(D) With respect to each urban and rural area included in the study, the objectives of the study shall be—

"(i) to identify characteristics and patterns of behavior of juveniles who are at risk of becoming violent or victims of homicide;

"(ii) to identify factors particularly indigenous to such area that contribute to violence committed by or against juveniles;

"(iii) to determine the accessibility of firearms, and the use of firearms by or against juveniles;

"(iv) to determine the conditions that cause any increase in violence committed by or against juveniles;

"(v) to identify existing and new diversion, prevention, and control programs to ameliorate such conditions;

"(vi) to improve current systems to prevent and control violence by or against juveniles; and

"(vii) to develop a plan to assist State and local governments to establish viable ways to reduce homicide committed by or against juveniles.

"(E) Not later than 3 years after the date of enactment of this subsection, the Administrator shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate detailing the results of the study addressing each objective specified in subparagraph (D).

"(7)(A) Not later than 1 year after the date of the enactment of this subsection, the Administrator shall—

"(i) conduct a study described in subparagraph (B); and

"(ii) submit to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate the results of the study.

"(B) The study required by subparagraph (A) shall assess—

"(i) the characteristics of juveniles who commit hate crimes, including a profile of such juveniles based on—

"(I) the motives for committing hate crimes;

"(II) the age, sex, race, ethnicity, education level, locality, and family income of such juveniles; and

"(III) whether such juveniles are familiar with publications or organized groups that encourage the commission of hate crimes;

"(ii) the characteristics of hate crimes committed by juveniles, including—

"(I) the types of hate crimes committed;

"(II) the frequency with which institutions and natural persons, separately determined, were the targets of such crimes;

"(III) the number of persons who participated with juveniles in committing such crimes;

"(IV) the types of law enforcement investigations conducted with respect to such crimes;

"(V) the law enforcement proceedings commenced against juveniles for committing hate crimes; and

"(VI) the penalties imposed on such juveniles as a result of such proceedings; and

"(iii) the characteristics of the victims of hate crimes committed by juveniles, including—

"(I) the age, sex, race, ethnicity, locality of the victims and their familiarity with the offender; and

"(II) the motivation behind the attack.".

(7) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665) is amended—

(A) in subsection (a)—

(i) by striking "(a) The" and inserting "(a) Except as provided in subsection (f), the";

(ii) in paragraph (1) by inserting "(including home-based treatment programs)" after "alternatives"; and

(iii) by amending paragraph (3) to read as follows:

"(3) Establishing or supporting advocacy programs and services that encourage the improvement of due process available to juveniles in the juvenile justice system and the quality of legal representation for such juveniles.";

(iv) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(v) by inserting after paragraph (3) the following new paragraph:

"(4) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles affected by the juvenile justice system, including services that provide for the appointment of special advocates by courts for such juveniles.";

(vi) in paragraph (4), as redesignated by clause (iv)—

(I) by inserting "(including self-help programs for parents)" after "programs"; and

(II) by inserting ", including programs that work with families during the incarceration of juvenile family members and which take into consideration the special needs of families with limited-English speaking ability" before the period at the end;

(vii) in paragraph (7), as redesignated by clause (iv)—

(I) by striking the period at the end of subchapter (C) and inserting a comma; and

(II) by adding at the end the following:

"that targets juveniles who have had contact with the juvenile justice system or who are likely to have contact with the system."; and

(viii) by adding at the end the following new paragraph:

"(9) Establishing or supporting programs designed to prevent and to reduce the incidence of hate crimes by juveniles, including—

"(A) model educational programs that are designed to reduce the incidence of hate crimes by means such as—

"(i) addressing the specific prejudicial attitude of each offender;

"(ii) developing an awareness in the offender of the effect of the hate crime on the victim; and

"(iii) educating the offender about the importance of tolerance in our society; and

"(B) sentencing programs that are designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration."; and

(B) in subsection (b)(5) by inserting "community service personnel," after "law enforcement personnel,";

(C) in subsection (b)—

(i) by striking "(b) The" and inserting "(b) Except as provided in subsection (f), the"; and

(ii) in paragraph (2) by inserting "to assist in identifying learning difficulties (including learning disabilities)," after "schools,"; and

(D) by adding at the end the following new subsection:

"(f) The Administrator shall not make a grant or a contract under subsection (a) or (b) to the Department of Justice or to any administrative unit or other entity that is part of the Department of Justice.".

(g) CONSIDERATIONS FOR APPROVAL OF APPLICATIONS.—Section 262(d)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665a(d)(1)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination waiving the competitive process—

"(i) with respect to programs to be carried out in areas with respect to which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists; or

"(ii) with respect to a particular program described in part C that is uniquely qualified."; and

(2) by striking subparagraph (C).

(h) PREVENTION, INTERVENTION, AND TREATMENT PROGRAM RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is amended to read as follows:

"PART D—GANG-FREE SCHOOLS AND COMMUNITIES; COMMUNITY-BASED GANG INTERVENTION

"Subpart I—Gang-Free Schools and Communities

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 281. (a) The Administrator shall make grants to or enter into contracts with public agencies (including local educational agencies) and private nonprofit agencies, organizations, and institutions to establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes:

"(1) To prevent and to reduce the participation of juveniles in the activities of gangs that commit crimes. Such programs and activities may include—

"(A) individual, peer, family, and group counseling, including the provision of life skills training and preparation for living independently, which shall include cooperation with social services, welfare, and health care programs;

"(B) education and social services designed to address the social and developmental needs of juveniles which such juveniles would otherwise seek to have met through membership in gangs;

"(C) crisis intervention and counseling to juveniles, who are particularly at risk of gang involvement, and their families, including assistance from social service, welfare, health care, mental health, and substance abuse prevention and treatment agencies where necessary;

"(D) the organization of neighborhood and community groups to work closely with parents, schools, law enforcement, and other public and private agencies in the community; and

"(E) training and assistance to adults who have significant relationships with juveniles who are or may become members of gangs, to assist such adults in providing constructive alternatives to participating in the activities of gangs.

"(2) To develop within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(3) To target elementary school students, with the purpose of steering students away from gang involvement.

"(4) To provide treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent.

"(5) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

"(6) To promote and support, with the cooperation of community-based organizations experienced in providing services to juveniles engaged in gang-related activities and the cooperation of local law enforcement agencies, the development of policies and activities in public elementary and secondary schools which will assist such schools in maintaining a safe environment conducive to learning.

"(7) To assist juveniles who are or may become members of gangs to obtain appropriate educational instruction, in or outside a regular school program, including the provision of counseling and other services to promote and support the continued participation of such juveniles in such instructional programs.

"(8) To expand the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substances analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802) by juveniles, provided through State and local health and social services agencies.

"(9) To provide services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity.

"(10) To provide services authorized in this section at a special location in a school or housing project.

"(11) To support activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this subpart.

"(b) From not more than 15 percent of the amount appropriated to carry out this part in each fiscal year, the Administrator may make grants to and enter into contracts with public agencies and private nonprofit agencies, organizations, and institutions—

"(1) to conduct research on issues related to juvenile gangs;

"(2) to evaluate the effectiveness of programs and activities funded under subsection (a); and

"(3) to increase the knowledge of the public (including public and private agencies that operate or desire to operate gang prevention and intervention programs) by disseminating information on research and on effective programs and activities funded under this subpart.

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"APPROVAL OF APPLICATIONS

"SEC. 281A. (a) Any agency, organization, or institution desiring to receive a grant, or to enter into a contract, under this subpart shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application submitted under subsection (a) shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 281 and specifically identify each such purpose such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(6) describe how such program or activity is coordinated with programs, activities, and services available locally under parts B or C of this title, and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801-11805);

"(7) certify that the applicant has requested the State planning agency to review and comment on such application and summarizes the responses of such State planning agency to such request;

"(8) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency; and

"(9) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(c) In reviewing applications for grants and contracts under section 281(a), the Administrator shall give priority to applications—

"(1) submitted by, or substantially involving, local educational agencies (as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891));

"(2) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(3) for assistance for programs and activities that—

"(A) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in such geographical area; and

"(B) will substantially involve the families of juvenile gang members in carrying out such programs or activities.

"Subpart II—Community-Based Gang Intervention

"SEC. 282. (a) The Administrator shall make grants to or enter into contracts with public and private nonprofit agencies, organizations, and institutions to carry out programs and activities—

"(1) to reduce the participation of juveniles in the illegal activities of gangs;

"(2) to develop regional task forces involving State, local, and community-based organizations to coordinate enforcement, intervention, and treatment efforts for juvenile gang members and to curtail interstate activities of gangs; and

"(3) to facilitate coordination and cooperation among—

"(A) local education, juvenile justice, employment, and social service agencies;

"(B) community-based programs with a proven record of effectively providing intervention services to juvenile gang members for the purpose of reducing the participation of juveniles in illegal gang activities; and

"(4) to support programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(A) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(B) assist in the provision by the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior.

"(b) Programs and activities for which grants and contracts are to be made under subsection (a) may include—

"(1) developing within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses;

"(2) providing treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent;

"(3) promoting the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes;

"(4) expanding the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substances analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802) by juveniles, provided through State and local health and social services agencies;

"(5) providing services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity; or

"(6) supporting activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this subpart.

"APPROVAL OF APPLICATIONS

"SEC. 282A. (a) Any agency, organization, or institution desiring to receive a grant, or to enter into a contract, under this subpart shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application submitted under subsection (a) shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 282 and specifically identify each such purpose such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(6) describe how such program or activity is coordinated with programs, activities, and services available locally under parts B or C of this title, and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801–11805);

"(7) certify that the applicant has requested the State planning agency to review and comment on such application and summarizes the responses of such State planning agency to such request;

"(8) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency; and

"(9) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(c) In reviewing applications for grants and contracts under section 285(a), the Administrator shall give priority to applications—

"(1) submitted by, or substantially involving, community-based organizations experienced in providing services to juveniles;

"(2) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(3) for assistance for programs and activities that—

"(A) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in such geographical area; and

"(B) will substantially involve the families of juvenile gang members in carrying out such programs or activities.

"Subpart III—General Provisions

"DEFINITION

"SEC. 283. For purposes of this part, the term 'juvenile' means an individual who is less than 22 years of age.".

(i) ADDITIONAL PARTS IN TITLE II.—(1) Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(A) by redesignating part E as part I;

(B) by redesignating sections 291, 292, 293, 294, 295, and 296 as sections 299, 299A, 299B, 299C, 299D, and 299E, respectively; and

(C) by inserting after part D the following new parts:

"PART E—STATE CHALLENGE ACTIVITIES

"ESTABLISHMENT OF PROGRAM

"SEC. 285. (a) IN GENERAL.—The Administrator may make a grant to a State that receives an allocation under section 222, in the amount of 10 percent of the amount of the allocation, for each challenge activity in which the State participates for the purpose of funding the activity.

"(b) DEFINITIONS.—For purposes of this part—

"(1) the term 'case review system' means a procedure for ensuring that—

"(A) each youth has a case plan, based on the use of objective criteria for determining a youth's danger to the community or himself or herself, that is designed to achieve appropriate placement in the least restrictive and most family-like setting available in close proximity to the parents' home, consistent with the best interests and special needs of the youth;

"(B) the status of each youth is reviewed periodically but not less frequently than once every 3 months, by a court or by administrative review, in order to determine the continuing necessity for and appropriateness of the placement;

"(C) with respect to each youth, procedural safeguards will be applied to ensure that a dispositional hearing is held to consider the future status of each youth under State supervision, in a juvenile or family court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, not later than 12 months after the original placement of the youth and periodically thereafter during the continuation of out-of-home placement; and

"(D) a youth's health, mental health, and education record is reviewed and updated periodically; and

"(2) the term 'challenge activity' means a program maintained for 1 of the following purposes:

"(A) Developing and adopting policies and programs to provide basic health, mental health, and appropriate education services, including special education, for youth in the juvenile justice system as specified in standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention prior to October 12, 1984.

"(B) Developing and adopting policies and programs to provide access to counsel for all juveniles in the justice system to ensure that juveniles consult with counsel before waiving the right to counsel.

"(C) Increasing community-based alternatives to incarceration by establishing programs (such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, and electronic monitoring) and developing and adopting a set of objective criteria for the appropriate placement of juveniles in detention and secure confinement.

"(D) Developing and adopting policies and programs to provide secure settings for the placement of violent juvenile offenders by closing down traditional training schools and replacing them with secure settings with capacities of no more than 50 violent juvenile offenders with ratios of staff to youth great enough to ensure adequate supervision and treatment.

"(E) Developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure that female youth have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, self defense instruction, education in parenting, education in general, and other training and vocational services.

"(F) Establishing and operating, either directly or by contract or arrangement with a public agency or other appropriate private nonprofit organization (other than an agency or organization that is responsible for licensing or certifying out-of-home care services for youth), a State ombudsman office for children, youth, and families to investigate and resolve complaints relating to action, inaction, or decisions of providers of out-of-home care to children and youth (including secure detention and correctional facilities, residential care facilities, public agencies, and social service agencies) that may adversely affect the health, safety, welfare, or rights of resident children and youth.

"(G) Developing and adopting policies and programs designed to remove, where appropriate, status offenders from the jurisdiction of the juvenile court to prevent the placement in secure detention facilities or secure correctional facilities of juveniles who are nonoffenders or who are charged with or who have committed offenses that would not be criminal if committed by an adult.

"(H) Developing and adopting policies and programs designed to serve as alternatives to suspension and expulsion from school.

"(I) Increasing aftercare services for juveniles involved in the justice system by establishing programs and developing and adopting policies to provide comprehensive health, mental health, education, and vocational services and services that preserve and strengthen the families of such juveniles.

"(J) Developing and adopting policies to establish—

"(i) a State administrative structure to coordinate program and fiscal policies for children who have emotional and behavioral problems and their families among the major child serving systems, including schools, social services, health services, mental health services, and the juvenile justice system; and

"(ii) a statewide case review system.

"Part F—Treatment for Juvenile Offenders Who are Victims of Child Abuse or Neglect

"DEFINITION

"SEC. 287. For the purposes of this part, the term 'juvenile' means a person who is less than 18 years of age.

"AUTHORITY TO MAKE GRANTS

"SEC. 287A. The Administrator, in consultation with the Secretary of Health and Human Services, shall make grants to public and nonprofit private organizations to develop, establish, and support projects that—

"(1) provide treatment to juvenile offenders who are victims of child abuse or neglect and to their families so as to reduce the likelihood that the juvenile offenders will commit subsequent violations of law;

"(2) based on the best interests of juvenile offenders who receive treatment for child abuse or neglect, provide transitional services (including individual, group, and family counseling) to juvenile offenders—

"(A) to strengthen the relationships of juvenile offenders with their families and encourage the resolution of intrafamily problems related to the abuse or neglect;

"(B) to facilitate their alternative placement; and

"(C) to prepare juveniles aged 16 years and older to live independently; and

"(3) carry out research (including surveys of existing transitional services, identification of exemplary treatment modalities, and evaluation of treatment and transitional services) provided with grants made under this section.

"ADMINISTRATIVE REQUIREMENTS

"SEC. 287B. The Administrator shall administer this part subject to the requirements of sections 262, 299B, and 299E.

"PRIORITY

"SEC. 287C. In making grants under section 287A, the Administrator—

"(1) shall give priority to applicants that have experience in treating juveniles who are victims of child abuse or neglect; and

"(2) may not disapprove an application solely because the applicant proposes to provide treatment or transitional services to juveniles who are adjudicated to be delinquent

for having committed offenses that are not serious crimes.

"PART G—MENTORING

"PURPOSES

"SEC. 288. The purposes of this part are—

"(1) to reduce juvenile delinquency and gang participation;

"(2) to improve academic performance; and

"(3) to reduce the dropout rate,

through the use of mentors for at-risk youth.

"DEFINITIONS

"SEC. 288A. For purposes of this part—

"(1) the term 'at-risk youth' means a youth at risk of educational failure or dropping out of school or involvement in delinquent activities; and

"(2) the term 'mentor' means a person who works with an at-risk youth on a one-to-one basis, establishing a supportive relationship with the youth and providing the youth with academic assistance and exposure to new experiences that enhance the youth's ability to become a responsible citizen.

"GRANTS

"SEC. 288B. The Administrator shall, by making grants to and entering into contracts with local educational agencies (each which agency shall be in partnership with a public or private agency, institution, or business), establish and support programs and activities for the purpose of implementing mentoring programs that—

"(1) are designed to link at-risk children, particularly children living in high crime areas and children experiencing educational failure, with responsible adults such as law enforcement officers, persons working with local businesses, and adults working for community-based organizations and agencies; and

"(2) are intended to achieve 1 or more of the following goals:

"(A) Provide general guidance to at-risk youth.

"(B) Promote personal and social responsibility among at-risk youth.

"(C) Increase at-risk youth's participation in and enhance their ability to benefit from elementary and secondary education.

"(D) Discourage at-risk youth's use of illegal drugs, violence, and dangerous weapons, and other criminal activity.

"(E) Discourage involvement of at-risk youth in gangs.

"(F) Encourage at-risk youth's participation in community service and community activities.

"REGULATIONS AND GUIDELINES

"SEC. 288C. (a) REGULATIONS.—The Administrator, after consultation with the Secretary of Health and Human Services, the Secretary of Education, and the Secretary of Labor, shall promulgate regulations to implement this part.

"(b) GUIDELINES.—The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.

"USE OF GRANTS

"SEC. 288D. (a) PERMITTED USES.—Grants awarded pursuant to this part shall be used to implement mentoring programs, including—

"(1) hiring of mentoring coordinators and support staff;

"(2) recruitment, screening, and training of adult mentors;

"(3) reimbursement of mentors for reasonable incidental expenditures such as transportation that are directly associated with mentoring; and

"(4) such other purposes as the Administrator may reasonably prescribe by regulation.

"(b) PROHIBITED USES.—Grants awarded pursuant to this part shall not be used—

"(1) to directly compensate mentors, except as provided pursuant to subsection (a)(3);

"(2) to obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the grantee's operations;

"(3) to support litigation of any kind; or

"(4) for any other purpose reasonably prohibited by the Administrator by regulation.

"PRIORITY

"SEC. 288E. (a) IN GENERAL.—In making grants under this part, the Administrator shall give priority for awarding grants to applicants that—

"(1) serve at-risk youth in high crime areas;

"(2) have 60 percent or more of their youth eligible to receive funds under chapter 1 of the Elementary and Secondary Education Act of 1965; and

"(3) have a considerable number of youth who drop out of school each year.

"(b) OTHER CONSIDERATIONS.—In making grants under this part, the Administrator shall give consideration to—

"(1) the geographic distribution (urban and rural) of applications;

"(2) the quality of a mentoring plan, including—

"(A) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or post-secondary education; and

"(B) the degree to which parents, teachers, community-based organizations, and the local community participate in the design and implementation of the mentoring plan; and

"(3) the capability of the applicant to effectively implement the mentoring plan.

"APPLICATIONS

"SEC. 288F. An application for assistance under this part shall include—

"(1) information on the youth expected to be served by the program;

"(2) a provision for a mechanism for matching youth with mentors based on the needs of the youth;

"(3) an assurance that no mentor will be assigned to more than one youth, so as to ensure a one-to-one relationship;

"(4) an assurance that projects operated in secondary schools will provide youth with a variety of experiences and support, including—

"(A) an opportunity to spend time in a work environment and, when possible, participate in the work environment;

"(B) an opportunity to witness the job skills that will be required for youth to obtain employment upon graduation;

"(C) assistance with homework assignments; and

"(D) exposure to experiences that youth might not otherwise encounter;

"(5) an assurance that projects operated in elementary schools will provide youth with—

"(A) academic assistance;

"(B) exposure to new experiences and activities that youth might not encounter on their own; and

"(C) emotional support;

"(6) an assurance that projects will be monitored to ensure that each youth benefits from a mentor relationship, with provision for a new mentor assignment if the relationship is not beneficial to the youth;

"(7) the method by which mentors and youth will be recruited to the project;

"(8) the method by which prospective mentors will be screened; and

"(9) the training that will be provided to mentors.

"GRANT CYCLES

"SEC. 288G. Grants under this part shall be made for 3-year periods.

"REPORTS

"SEC. 288H. Not later than 120 days after the completion of the first cycle of grants under this part, the Administrator shall submit to Congress a report regarding the success and effectiveness of the grant program in reducing juvenile delinquency and gang participation, improving academic performance, and reducing the dropout rate.

"PART H—BOOT CAMPS

"ESTABLISHMENT OF PROGRAM

"SEC. 289. (a) IN GENERAL.—The Administrator may make grants to the appropriate agencies of 1 or more States for the purpose of establishing up to 10 military-style boot camps for juvenile delinquents (referred to as "boot camps").

"(b) LOCATION.—(1) The boot camps shall be located on existing or closed military installations on sites to be chosen by the agencies in one or more States, or in other facilities designated by the agencies on such sites, after consultation with the Secretary of Defense, if appropriate, and the Administrator.

"(2) The Administrator shall—

"(A) try to achieve to the extent possible equitable geographic distribution in approving boot camp sites; and

"(B) give priority to grants where more than one State enters into formal cooperative arrangements to jointly administer a boot camp; and

"(c) REGIMEN.—The boot camps shall provide—

"(1) a highly regimented schedule of discipline, physical training, work, drill, and ceremony characteristic of military basic training;

"(2) regular, remedial, special, and vocational education; and

"(3) counseling and treatment for substance abuse and other health and mental health problems.

"CAPACITY

"SEC. 289A. Each boot camp shall be designed to accommodate between 150 and 250 juveniles for such time as the grant recipient agency deems to be appropriate.

"ELIGIBILITY AND PLACEMENT

"SEC. 289B. (a) ELIGIBILITY.—A person shall be eligible for assignment to a boot camp if he or she—

"(1) is considered to be a juvenile under the laws of the State of jurisdiction; and

"(2) has been adjudicated to be delinquent in the State of jurisdiction or, upon approval of the court, voluntarily agrees to the boot camp assignment without a delinquency adjudication.

"(b) PLACEMENT.—Prior to being placed in a boot camp, an assessment of a juvenile shall be performed to determine that—

"(1) the boot camp is the least restrictive environment that is appropriate for the juvenile considering the seriousness of the juvenile's delinquent behavior and the juvenile's treatment need; and

"(2) the juvenile is physically and emotionally capable of participating in the boot camp regimen.

"POST-RELEASE SUPERVISION

"SEC. 289C. A State that seeks to establish a boot camp, or participate in the joint ad-

ministration of a boot camp, shall submit to the Administrator a plan describing—

"(1) the provisions that the State will make for the continued supervision of juveniles following release; and

"(2) provisions for educational and vocational training, drug or other counseling and treatment, and other support services.

"PART I—WHITE HOUSE CONFERENCE ON JUVENILE JUSTICE

"SEC. 291. (a) IN GENERAL.—The President may call and conduct a National White House Conference on Juvenile Justice (referred to as the "Conference") in accordance with this part.

"(b) PURPOSES OF CONFERENCE.—The purposes of the Conference shall be—

"(1) to increase public awareness of the problems of juvenile offenders and the juvenile justice system;

"(2) to examine the status of minors currently in the juvenile and adult justice systems;

"(3) to examine the increasing number of violent crimes committed by juveniles;

"(4) to examine the growing phenomena of youth gangs, including the number of young women who are involved;

"(5) to assemble persons involved in policies and programs related to juvenile delinquency prevention and juvenile justice enforcement;

"(6) to examine the need for improving services for girls in the juvenile justice system;

"(7) to create a forum in which persons and organizations from diverse regions may share information regarding successes and failures of policy in their juvenile justice and juvenile delinquency prevention programs; and

"(8) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to address the problems of juvenile delinquency and juvenile justice.

"(c) SCHEDULE OF CONFERENCES.—The Conference under this part shall be concluded not later than 18 months after the date of enactment of this part.

"(d) PRIOR STATE AND REGIONAL CONFERENCES.—

"(1) IN GENERAL.—Participants in the Conference and other interested persons and organizations may conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the executive director of the Conference.

"(2) PURPOSE OF STATE AND REGIONAL CONFERENCES.—State and regional conferences and activities shall be directed toward the consideration of the purposes of this part. State conferences shall elect delegates to the National Conferences.

"(3) ADMITTANCE.—No person involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders may be denied admission to a State or regional conference.

"CONFERENCE PARTICIPANTS

"SEC. 291A. (a) IN GENERAL.—The Conference shall bring together persons concerned with issues and programs, both public and private, relating to juvenile justice, and juvenile delinquency prevention.

"(b) SELECTION.—

"(1) STATE CONFERENCES.—Delegates, including alternates, to the National Conference shall be elected by participants at the State conferences.

"(2) DELEGATES.—(A) In addition to delegates elected pursuant to paragraph (1)—

"(i) each Governor may appoint 1 delegate and 1 alternate;

"(ii) the majority leader of the Senate, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

"(iii) the Speaker of the House of Representatives, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

"(iv) the President may appoint 20 delegates and 5 alternates;

"(v) the chief law enforcement official and the chief juvenile corrections official of each State may appoint 1 delegate and 1 alternate each; and

"(vi) the Chairperson of the Juvenile Justice and Delinquency Prevention Advisory Committee of each State, or his or her designate, may appoint 1 delegate.

"(B) Only persons involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders shall be eligible for appointment as a delegate.

"(c) PARTICIPANT EXPENSES.—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed from funds appropriated pursuant to this Act.

"(d) NO FEES.—No fee may be imposed on a person who attends a Conference except a registration fee of not to exceed $10.

"STAFF AND EXECUTIVE BRANCH

"SEC. 291B. (a) IN GENERAL.—The President may appoint and compensate an executive director of the National White House Conference on Juvenile Justice and such other directors and personnel for the Conference as the President may deem to be advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and 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. The staff of the Conference may not exceed 20, including the executive director.

"(b) DETAILEES.—Upon request by the executive director, the heads of the executive and military departments may detail employees to work with the executive director in planning and administering the Conference without regard to section 3341 of title 5, United States Code.

"PLANNING AND ADMINISTRATION OF CONFERENCE

"SEC. 291C. (a) FEDERAL AGENCY SUPPORT.—All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

"(b) DUTIES OF THE EXECUTIVE DIRECTOR.—In carrying out this part, the executive director of the White House Conference on Juvenile Justice—

"(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels authorized by section 291(d);

"(2) may enter into contracts and agreements with public and private agencies and organizations and academic institutions to assist in carrying out this part; and

"(3) shall prepare and provide background materials for use by participants in the Conference and by participants in State and regional conferences.

"REPORTS

"SEC. 291D. (a) IN GENERAL.—Not later than 6 months after the date on which a National Conference is convened, a final report of the Conference shall be submitted to the President and the Congress.

"(b) CONTENTS.—A report described in subsection (a)—

"(1) shall include the findings and recommendations of the Conference and proposals for any legislative action necessary to implement the recommendations of the Conference; and

"(2) shall be made available to the public.

"OVERSIGHT

"SEC. 291E. The Administrator shall report to the Congress annually during the 3-year period following the submission of the final report of a Conference on the status and implementation of the findings and recommendations of the Conference.".

(2) REPEALER.—Subtitle G of title II of the Crime Control Act of 1990 (42 U.S.C. 13051 et seq.) is repealed effective September 30, 1993.

(j) GENERAL AND ADMINISTRATIVE PROVISIONS.—Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974, as redesignated by subsection (g), is amended—

(1) by amending subsection (a) to read as follows:

"(a)(1) To carry out the purposes of this title (other than parts D, E, F, G, H, and I) there are authorized to be appropriated $150,000,000 for fiscal years 1993, 1994, 1995, and 1996. Funds appropriated for any fiscal year shall remain available for obligation until expended.

"(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated—

"(i) to carry out subpart 1, $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996; and

"(ii) to carry put subpart 2, $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(B) No funds may be appropriated to carry out part D, E, F, G, or I of this title or title V or VI for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D, E, F, G, or I of this title or title V or VI) for the fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D, E, F, G, or I of this title or title V or VI) for the preceding fiscal year.

"(3) To carry out part E, there are authorized to be appropriated $50,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, and 1996.

"(4)(A) Subject to subparagraph (B), there are authorized to be appropriated to carry out part F—

"(i) $15,000,000 for fiscal year 1993; and

"(ii) such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(B) No amount is authorized to be appropriated for a fiscal year to carry out part F unless the aggregate amount appropriated to carry out this title for that fiscal year is not less than the aggregate amount appropriated to carry out this title for the preceding fiscal year.

"(C) From the amount appropriated to carry out part F in a fiscal year, the Administrator shall use—

"(i) not less than 85 percent to make grants for treatment and transitional services;

"(ii) not to exceed 10 percent for grants for research; and

"(iii) not to exceed 5 percent for salaries and expenses of the Office of Juvenile Justice and Delinquency Prevention related to administering part F.

"(5)(A) Subject to subparagraph (B), there are authorized to be appropriated to carry out part G such sums as are necessary for fiscal years 1993, 1994, 1995, and 1996.

"(6)(A) There are authorized to be appropriated to carry out part H such sums as are necessary for fiscal year 1993, to remain available until expended, of which—

"(i) not more than $12,500,000 shall be used to convert any 1 closed military base or to modify any 1 existing military base or other designated facility to a boot camp; and

"(ii) not more than $2,500,000 shall be used to operate any 1 boot camp during a fiscal year.

"(B) No amount is authorized to be appropriated for a fiscal year to carry out part H unless the aggregate amount appropriated to carry out parts A, B, and C of this title for that fiscal year is not less than 120 percent of the aggregate amount appropriated to carry out those parts for fiscal year 1992.

"(7)(A) There are authorized to be appropriated such sums are necessary for each National Conference and associated State and regional conferences under part I, to remain available until expended.

"(B) New spending authority or authority to enter into contracts under part I shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

"(C) No funds appropriated to carry out this Act shall be made available to carry out part I other than funds appropriated specifically for the purpose of conducting the Conference.

"(D) Any funds remaining unexpended at the termination of the Conference under part I, including submission of the report pursuant to section 291D, shall be returned to the Treasury of the United States and credited as miscellaneous receipts."; and

(2) by adding at the end the following new subsection:

"(e) Of such sums as are appropriated to carry out section 261(a)(6), not less than 20 percent shall be reserved by the Administrator for each of fiscal years 1993, 1994, 1995, and 1996, for not less than 2 programs that have not received funds under subpart II of part C prior to October 1, 1992, which shall be selected through the application and approval process set forth in section 262.".

**SEC. 3. RUNAWAY AND HOMELESS YOUTH.**

(a) FINDINGS.—Section 302 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) juveniles who have become homeless or who leave and remain away from home without parental permission, are at risk of developing serious health and other problems because they lack sufficient resources to obtain care and may live on the street for extended periods thereby endangering themselves and creating a substantial law enforcement problem for communities in which they congregate;";

(2) by striking "and" at the end of paragraph (4);

(3) in paragraph (5) by striking "temporary" and all that follows through the period at the end and inserting "care (including preventive services, emergency shelter services, and extended residential shelter) outside the welfare system and the law enforcement system;" and

(4) by adding at the end the following new paragraphs:

"(6) runaway and homeless youth have a disproportionate share of health, behavioral, and emotional problems compared to the general population of youth, but have less access to health care and other appropriate services and therefore may need access to longer periods of residential care, more intensive aftercare service, and other assistance;

"(7) to make a successful transition to adulthood, runaway youth, homeless youth, and other street youth need opportunities to complete high school or earn a general equivalency degree, learn job skills, and obtain employment;

"(8) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop an accurate national reporting system and to develop an effective system of care including prevention, emergency shelter services, and longer residential care outside the public welfare and law enforcement structures;

"(9) early intervention services (such as home-based services) are needed to prevent runaway and homeless youth from becoming involved in the juvenile justice system and other law enforcement systems; and

"(10) street-based services that target runaway and homeless youth where they congregate are needed to reach youth who require assistance but who would not otherwise avail themselves of such assistance or services without street-based outreach.".

(b) AUTHORITY TO MAKE GRANTS.—

(1) AUTHORITY.—Section 311(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(a)) is amended by striking "structure and" and inserting "system, the child welfare system, the mental health system, and".

(2) ALLOTMENT OF FUNDS.—Section 311(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(b)) is amended—

(A) in paragraph (2)—

(i) by striking "$75,000" and inserting "$100,000"; and

(ii) by striking "$30,000" and inserting "$45,000"; and

(B) in paragraph (3) by striking "1988" each place it appears and inserting "1992".

(3) STREET-BASED SERVICES; HOME-BASED SERVICES.—Section 311 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended by striking subsection (c) and inserting the following:

"(c)(1) If for a fiscal year the amount appropriated under section 385(a)(1) exceeds $50,000,000, the Secretary may make grants under this subsection for that fiscal year to entities that receive grants under subsection (a) to establish and operate street-based service projects for runaway and homeless youth.

"(2) For purposes of this part, the term 'street-based services' includes—

"(i) street-based crisis intervention and counseling;

"(ii) information and referral for housing;

"(iii) information and referral for transitional living and health care services; and

"(iv) advocacy, education, and prevention services for—

"(I) alcohol and drug abuse;

"(II) sexually transmitted diseases including HIV/AIDS infection; and

"(III) physical and sexual assault.

"(d)(1) If for a fiscal year the amount appropriated under section 385(a)(1) exceeds $50,000,000, the Secretary may make grants for that fiscal year to entities that receive grants under subsection (a) to establish and operate home-based service projects for families that are separated, or at risk of separation, as a result of the physical absence of a runaway youth or youth at risk of family separation.

"(2) For purposes of this part—

"(A) the term 'home-based service project' means a project that provides—

"(i) case management; and

"(ii) in the family residence (to the maximum extent practicable)—

"(I) intensive, time-limited, family and individual counseling;

"(II) training relating to life skills and parenting; and

"(III) other services;

designed to prevent youth from running away from their families or to cause runaway youth or to return to their families;

"(B) the term 'youth at risk of family separation' means an individual—

"(i) who is less than 18 years of age; and

"(ii)(I) who has a history of running away from the family of such individual;

"(II) whose parent, guardian, or custodian is not willing to provide for the basic needs of such individual; or

"(III) who is at risk of entering the child welfare system or juvenile justice system, as a result of the lack of services available to the family to meet such needs; and

"(C) the term 'time-limited' means for a period not to exceed 6 months.".

(c) ELIGIBILITY.—Section 312 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712) is amended—

(1) in subsection (a) by striking "facility providing" and inserting "project (including a host family home) that provides"; and

(2) in subsection (b)—

(A) by amending paragraph (2) to read as follows:

"(2) shall use such assistance to establish, to strengthen, or to fund a runaway and homeless youth center, or a locally controlled facility providing temporary shelter, that has—

"(A) a maximum capacity of not more than 20 youth; and

"(B) a ratio of staff to youth that is sufficient to ensure adequate supervision and treatment;";

(B) in paragraph (3)—

(i) by striking "child's parents or relatives and assuring" and inserting "parents or other relatives of the youth and ensuring"; and

(ii) by striking "child" each place it appears and inserting "youth";

(C) by amending paragraph (4) to read as follows:

"(4) shall develop an adequate plan for ensuring—

"(A) proper relations with law enforcement personnel, health and mental health care personnel, social service personnel, school system personnel, and welfare personnel;

"(B) coordination with personnel of the schools to which runaway and homeless youth will return, to assist such youth to stay current with the curricula of those schools; and

"(C) the return of runaway and homeless youth from correctional institutions;";

(D) in paragraph (5)—

(i) by striking "aftercare" and all that follows through "assuring" and inserting "providing counseling and aftercare services to such youth, for encouraging the involvement of their parents or legal guardians in counseling, and for ensuring"; and

(ii) by striking "children" and inserting "youth";

(E) in paragraph (6) by striking "children and family members which it serves" and inserting "youth and family members whom it serves (including youth who are not referred to out-of-home shelter services)";

(F) by redesignating paragraphs (6), (7), (8), (9), and (10) as paragraphs (7), (8), (9), (10), and (11), respectively;

(G) by inserting after paragraph (5) the following new paragraph:

"(6) shall develop an adequate plan for establishing or coordinating with outreach

programs designed to attract persons (including, where applicable, persons who are members of a cultural minority and persons with limited ability to speak English) who are eligible to receive services for which a grant under subsection (a) may be expended;"; and

(H) by adding at the end the following new subsections:

"(c) To be eligible for assistance under section 311(c), an applicant shall propose to establish, strengthen, or fund a street-based service project for runaway and homeless youth and shall submit to the Secretary a plan in which the applicant agrees, as part of the project—

"(1) to provide qualified supervision of staff, including on-street supervision by appropriately trained staff;

"(2) to provide backup personnel for on-street staff;

"(3) to provide informational and health educational material to runaway and homeless youth in need of services;

"(4) to provide initial and periodic training of staff who provide services under the project;

"(5) to carry out outreach activities for runaway and homeless youth and to collect statistical information on runaway and homeless youth contacted through such activities;

"(6) to develop referral relationships with agencies and organizations that provide services or assistance to runaway and homeless youth, including law enforcement, education, social services, vocational education and training, public welfare, legal assistance, mental health and health care;

"(7) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds received under section 311(c), the achievements of the project under section 311(c) carried out by the applicant, and statistical summaries describing the number and the characteristics of the runaway and homeless youth who participate in such project in the year for which the report is submitted;

"(8) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(9) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under subsection 311(c);

"(10) to keep adequate statistical records that profile runaway and homeless youth whom it serves and not to disclose the identity of such youth in reports or other documents based on such statistical records;

"(11) not to disclose records maintained on an individual runaway and homeless youth without the informed consent of the youth, to any person other than an agency compiling statistical records; and

"(12) to provide to the Secretary such other information as the Secretary may reasonably require.

"(d) To be eligible for assistance under section 311(d), an applicant shall propose to establish, strengthen, or fund a home-based service project for runaway youth or youth at risk of family separation and shall submit to the Secretary a plan in which the applicant agrees, as part of the project—

"(1) to provide counseling and information services needed by runaway youth, youth at risk of family separation, and the family (including unrelated individuals in the family household) of such youth, including services relating to basic life skills, interpersonal skill building, educational advancement, job attainment skills, mental and physical health care, parent training, financial planning, and referral to sources of other needed services;

"(2) to provide directly, or through an arrangement made by the applicant, 24-hour service to respond to family crises (including immediate access to temporary shelter for runaway youth and youth at risk of family separation affected by family crises);

"(3) to establish in partnership with the families of runaway youth and youth at risk of family separation, objectives and measures of success to be achieved as a result of participating in such project;

"(4) to provide informational and health educational material to runaway youth and youth at risk of family separation in need of services;

"(5) to provide initial and periodic training of staff who provide services under the project;

"(6) to carry out outreach activities for runaway youth and youth at risk of family separation, and to collect statistical information on runaway youth and youth at risk of family separation contacted through such activities;

"(7) to ensure that—

"(i) caseloads will remain sufficiently low to allow for intensive (5 to 20 hours per week) involvement with each family participating in such project; and

"(ii) qualified supervision will be provided to staff who provide services under the project;

"(8) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds under section 311(d), the achievements of the project under this part carried out by the applicant and statistical summaries describing the number and the characteristics of the runaway youth and youth at risk of family separation who participate in such project in the year for which the report is submitted;

"(9) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(10) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under section 311(d);

"(11) to keep adequate statistical records that profile runaway youth and youth at risk of family separation whom it serves and not to disclose the identity of such youth in reports or other documents based on such statistical records;

"(12) not to disclose records maintained on an individual runaway youth or youth at risk of family separation without the informed consent of the youth, to any person other than an agency compiling statistical records; and

"(13) to provide to the Secretary such other information as the Secretary may reasonably require.".

(d) APPROVAL BY SECRETARY.—Section 316 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5713) is amended—

(1) in the first sentence by striking "section 311(a)" each place it appears and inserting "section 311 (a), (c), or (d)"; and

(2) in the second sentence by striking "$150,000" and inserting "$200,000".

(e) GRANTS TO PRIVATE ENTITIES; STAFFING.—Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended—

(1) by striking "part" each place it appears and inserting "title";

(2) in the first sentence inserting "and the programs, projects, and activities they carry out under this title" after "center"; and

(3) in the last sentence by inserting "under this title" before the period.

(f) TRANSITIONAL LIVING GRANT PROGRAM.—Section 322(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714–2(a)) is amended—

(1) in paragraph (1) by inserting "which shall include money management, budgeting, consumer education, and use of credit" after "basic life skills"; and

(2) in paragraph (13)—

(A) by striking "consent of the individual youth and parent or legal guardian" and inserting "informed consent of the individual youth"; and

(B) by striking "or a government agency involved in the disposition of criminal charges against youth".

(g) NATIONAL COMMUNICATION SYSTEM; STREET-BASED SERVICES PROGRAM; HOME-BASED SERVICES PROGRAM; COORDINATING ACTIVITIES.—

(1) ADDITIONAL PARTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended—

(A) in part D—

(i) by striking "PART D" and inserting "PART F"; and

(ii) by redesignating sections 361, 362, 363, 364, and 366 as sections 381 through 385, respectively;

(B) in part C—

(i) by striking "PART C" and inserting "PART E"; and

(ii) by redesignating sections 341 and 342 as sections 371 and 372, respectively; and

(C) by inserting after part B the following new parts:

"PART C—NATIONAL COMMUNICATIONS SYSTEM

"AUTHORITY TO MAKE GRANTS

"SEC. 331. With funds reserved under section 385(a)(3), the Secretary shall make grants for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers. The Secretary shall give priority to grant applicants that have experience in providing telephone services to runaway and homeless youth.

"PART D—COORDINATING, TRAINING, RESEARCH, AND OTHER ACTIVITIES

"COORDINATION

"SEC. 341. With respect to matters relating to the health, education, employment, and housing of runaway and homeless youth, the Secretary shall coordinate the activities of agencies of the Department of Health and Human Services with the activities of other Federal entities and with the activities of entities that are eligible to receive grants under this title.

"GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

"SEC. 342. The Secretary may make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities (and combinations of such entities) that are eligible to receive grants under this title, for the purpose of carrying out the programs, projects, or activities for which such grants are made.

"AUTHORITY TO MAKE GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

"SEC. 343. (a) The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway youth and homeless youth.

"(b) In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

"(1) youth who repeatedly leave and remain away from their homes;

"(2) home-based and street-based services for, and outreach to, runaway youth and homeless youth;

"(3) transportation of runaway youth and homeless youth in connection with services authorized to be provided under this title;

"(4) the special needs of runaway youth and homeless youth programs in rural areas;

"(5) the special needs of programs that place runaway youth and homeless youth in host family homes;

"(6) staff training in—

"(A) the behavioral and emotional effects of sexual abuse and assault;

"(B) responding to youth who are showing effects of sexual abuse and assault; and

"(C) agency-wide strategies for working with runway and homeless youth who have been sexually victimized;

"(7) innovative methods of developing resources that enhance the establishment or operation of runaway and homeless youth centers;

"(8) training for runaway youth and homeless youth, and staff training, related to preventing and obtaining treatment for infection by the human immunodeficiency virus (HIV);

"(9) increasing access to health care (including mental health care) for runaway youth and homeless youth; and

"(10) increasing access to education for runaway youth and homeless youth.

"(c) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants who have experience working with runaway youth or homeless youth.

"TEMPORARY DEMONSTRATION PROJECTS TO PROVIDE SERVICES TO YOUTH IN RURAL AREAS

"SEC. 344. (a)(1) With funds appropriated under section 385(c), the Secretary may make grants on a competitive basis to States, localities, and private entities (and combinations of such entities) to provide services (including transportation) authorized to be provided under part A, to runaway and homeless youth in rural areas.

"(2)(A) Each grant made under paragraph (1) may not exceed $100,000.

"(B) In each fiscal year for which funds are appropriated to carry out this section, grants shall be made under paragraph (1) to eligible applicants carry out projects in not fewer than 10 States.

"(C) Not more than 2 grants may be made under paragraph (1) in each fiscal year to carry out projects in a particular State.

"(3) Each eligible applicant that receives a grant for a fiscal year to carry out a project under this section shall have priority to receive a grant for the subsequent fiscal year to carry out a project under this section.

"(b) To be eligible to receive a grant under subsection (a), an applicant shall—

"(1) submit to the Secretary an application in such form and containing such information and assurances as the Secretary may require by rule; and

"(2) propose to carry out such project in a geographical area that—

"(A) has a population under 20,000;

"(B) is located outside a Standard Metropolitan Statistical Area; and

"(C) agree to provide to the Secretary an annual report identifying—

"(i) the number of runaway and homeless youth who receive services under the project carried out by the applicant;

"(ii) the types of services authorized under part A that were needed by, but not provided to, such youth in the geographical area served by the project;

"(iii) the reasons the services identified under clause (ii) were not provided by the project; and

"(iv) such other information as the Secretary may require.".

(2) TECHNICAL AMENDMENTS.—(A) Section 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5712a) is repealed.

(B) Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5712b) is repealed.

(C) Section 315 of the Runaway and Homeless Youth Act (42 U.S.C. 5712c) is repealed.

(D) Sections 316 and 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5713, 5714) are redesignated as sections 313 and 314, respectively.

(E) Section 365 of the Runaway and Homeless Youth Act (42 U.S.C. 5733) is repealed.

(h) REPORTS.—Section 361 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5715) is amended to read as follows:

"REPORTS

"SEC. 361. (a) Not later than 180 days after the end of each fiscal year, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate on the status, activities, and accomplishments of the runaway and homeless youth centers that are funded under parts A, B, C, D, and E, with particular attention to—

"(1) in the case of centers funded under part A—

"(A) their effectiveness in alleviating the problems of runaway and homeless youth;

"(B) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services;

"(C) their effectiveness in strengthening family relationships and encouraging stable living conditions for children; and

"(D) their effectiveness in helping youth decide upon a future course of action; and

"(2) in the case of centers funded under part B—

"(A) the number and characteristic of homeless youth served by such projects;

"(B) describing the types of activities carried out under such projects;

"(C) the effectiveness of such projects in alleviating the immediate problems of homeless youth;

"(D) the effectiveness of such projects in preparing homeless youth for self-sufficiency;

"(E) the effectiveness of such projects in helping youth decide upon future education, employment, and independent living;

"(F) the ability of such projects to strengthen family relationships, and encourage the resolution of intrafamily problems through counseling and the development of self-sufficient living skills; and

"(G) plans for the following fiscal year.".

(2) by adding at the end the following:

"(b)(1) The Secretary shall include in the report required by subsection (a) an evaluation of the results of Federal evaluation of the programs, projects, and activities carried out under this title and a description of the training provided to the persons who carry out the evaluation.

"(2) As part of the evaluation described in paragraph (1), the Secretary shall require the persons who carry out the evaluation to visit each grantee on-site not less frequently than every 3 years.".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 366 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) There are authorized to be appropriated to carry out this title (other than part B and section 344) $75,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996."; and

(B) by adding at the end the following new paragraphs:

"(3) After making the allocation required by paragraph (2), the Secretary shall reserve for the purpose of carrying out section 331—

"(A) for fiscal year 1993 not less than $912,500, of which $125,000 shall be available for the acquisition of communications equipment;

"(B) for fiscal year 1994 not less than $826,900;

"(C) for fiscal year 1995 not less than $868,300; and

"(D) for fiscal year 1996 not less than $911,700.

"(4) In the use of funds appropriated under paragraph (1) that are in excess of $38,000,000 but less than $42,600,000, priority may be given to awarding enhancement grants to programs (with priority to programs that receive grants of less than $85,000), for the purpose of allowing such programs to achieve higher performance standards, including—

"(A) increasing and retaining trained staff;

"(B) strengthening family reunification efforts;

"(C) improving aftercare services;

"(D) fostering better coordination of services with public and private entities;

"(E) providing comprehensive services, including health and mental health care, education, prevention and crisis intervention, and vocational services; and

"(F) improving data collection efforts.

"(5) In the use of funds appropriated under paragraph (1) that are in excess of $42,599,999—

"(A) 50 percent may be targeted at developing new programs in unserved or underserved communities; and

"(B) 50 percent may be targeted at program enhancement activities described in paragraph (3).";

(2) in subsection (b) by amending paragraph (1) to read as follows:

"(1) Subject to paragraph (2), there are authorized to be appropriated to carry out part B $25,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996."

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following new subsection:

"(c) There is authorized to be appropriated to carry out section 344 $1,000,000 for each of fiscal years 1993, 1994, 1995, and 1996.".

**SEC. 4. MISSING CHILDREN.**

Section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5777) is amended by striking "fiscal years 1989, 1990, 1991, and 1992" and inserting "fiscal years 1993, 1994, 1995, and 1996".

**SEC. 5. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.**

(a) ESTABLISHMENT OF PROGRAM.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following new title:

**"TITLE V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS**

**"SEC. 501. SHORT TITLE.**

"This title may be cited as the 'Incentive Grants for Local Delinquency Prevention Programs Act'.

**"SEC. 502. FINDINGS.**

"The Congress finds that—

"(1) approximately 700,000 youth enter the juvenile justice system every year;

"(2) Federal, State, and local governments spend close to $2,000,000,000 a year confining many of those youth;

"(3) it is more effective in both human and fiscal terms to prevent delinquency than to attempt to control or change it after the fact;

"(4) half or more of all States are unable to spend any juvenile justice formula grant funds on delinquency prevention because of other priorities;

"(5) few Federal resources are dedicated to delinquency prevention; and

"(6) Federal incentives are needed to assist States and local communities in mobilizing delinquency prevention policies and programs.

**"SEC. 503. DEFINITION.**

"In this title, the term 'State advisory group' means the advisory group appointed by the chief executive officer of a State under a plan described in section 223(a).

**"SEC. 504. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.**

"The Administrator shall—

"(1) issue such rules as are necessary or appropriate to carry out this title;

"(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);

"(3) provide adequate staff and resources necessary to properly carry out this title; and

"(4) not later than 180 days after the end of each fiscal year, submit a report to the Chairman of the Committee on Education and Labor of the House of Representatives and the Chairman of the Committee on the Judiciary of the Senate—

"(A) describing activities and accomplishments of grant activities funded under this title;

"(B) describing procedures followed to disseminate grant activity products and research findings;

"(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and

"(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.

**"SEC. 505. GRANTS FOR PREVENTION PROGRAMS.**

"(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of general local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for youth who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to children, youth, and families of—

"(1) recreation services;

"(2) tutoring and remedial education;

"(3) assistance in the development of work awareness skills;

"(4) child and adolescent health and mental health services;

"(5) alcohol and substance abuse prevention services;

"(6) leadership development activities; and

"(7) the teaching that people are and should be held accountable for their actions.

"(b) ELIGIBILITY.—The requirements of this subsection are met with respect to a unit of general local government if—

"(1) the unit is in compliance with the requirements of part B of title II;

"(2) the unit has submitted to the State advisory group a 3-year plan outlining the unit's local front end plans for investment for delinquency prevention and early intervention activities;

"(3) the unit has included in its application to the Administrator for formula grant funds a summary of the 3-year plan described in paragraph (2);

"(4) pursuant to its 3-year plan, the unit has appointed a local policy board of no fewer than 15 and no more than 21 members with balanced representation of public agencies and private, nonprofit organizations serving children, youth, and families and business and industry;

"(5) the unit has, in order to aid in the prevention of delinquency, included in its application a plan for the coordination of services to at-risk youth and their families, including such programs as nutrition, energy assistance, and housing;

"(6) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and

"(7) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

"(c) PRIORITY.—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—

"(1) plans for service and agency coordination and collaboration including the colocation of services;

"(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities; and

"(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention.

**"SEC. 506. AUTHORIZATION OF APPROPRIATIONS.**

"To carry out this title, there are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.".

(b) STUDY.—After the program established by subsection (a) has been funded for two years, the General Accounting Office shall prepare and submit to Congress a study of the effects of the program in encouraging States and units of general local government to comply with the requirements of part B of title II.

**SEC. 6. CHILDREN'S ADVOCACY PROGRAM.**

(a) FINDINGS.—Section 211 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13001) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (6), and (7), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) traditionally, community agencies and professionals have different roles in the prevention, investigation, and intervention process;" and

(3) by inserting after paragraph (4), as redesignated by paragraph (1), the following new paragraph:

"(5) there is a national need to enhance coordination among community agencies and professionals involved in the intervention system;".

(b) REGIONAL CHILDREN'S ADVOCACY PROGRAM.—Subtitle A of the Victims of Child Abuse Act (42 U.S.C. 13001 et seq.) is amended—

(1) by redesignating sections 212, 213, and 214 as sections 214, 214A, and 214B, respectively; and

(2) by inserting after section 211 the following new sections:

**"SEC. 212. DEFINITIONS.**

"For purposes of this subtitle—

"(1) the term 'Administrator' means the agency head designated under section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b));

"(2) the term 'applicant' means a child protective service, law enforcement, legal, medical and mental health agency or other agency that responds to child abuse cases;

"(3) the term 'board' means the Children's Advocacy Advisory Board established under section 213(e);

"(4) the term 'census region' means 1 of the 4 census regions (northeast, south, midwest, and west) that are designated as census regions by the Bureau of the Census as of the date of enactment of this section;

"(5) the term 'child abuse' means physical or sexual abuse or neglect of a child;

"(6) the term 'Director' means the Director of the National Center on Child Abuse and Neglect;

"(7) the term 'multidisciplinary response to child abuse' means a response to child abuse that is based on mutually agreed upon procedures among the community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that best meets the needs of child victims and their nonoffending family members;

"(8) the term 'nonoffending family member' means a member of the family of a victim of child abuse other than a member who has been convicted or accused of committing an act of child abuse; and

"(9) the term 'regional children's advocacy program' means the children's advocacy program established under section 213(a).

**"SEC. 213. REGIONAL CHILDREN'S ADVOCACY CENTERS.**

"(a) ESTABLISHMENT OF REGIONAL CHILDREN'S ADVOCACY PROGRAM.—The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime, shall establish a children's advocacy program to—

"(1) focus attention on child victims by assisting communities in developing child-focused, community-oriented, facility-based programs designed to improve the resources available to children and families;

"(2) provide support for nonoffending family members;

"(3) enhance coordination among community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases; and

"(4) train physicians and other health care and mental health care professionals in the multidisciplinary approach to child abuse so that trained medical personnel will be available to provide medical support to community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases.

"(b) ACTIVITIES OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—

"(1) ADMINISTRATOR.—The Administrator, in coordination with the Director, shall—

"(A) establish regional children's advocacy program centers;

"(B) fund existing regional centers with expertise in the prevention, judicial handling, and treatment of child abuse and neglect; and

"(C) fund the establishment of freestanding facilities in multidisciplinary programs within communities that have yet to establish such facilities,

for the purpose of enabling grant recipients to provide information, services, and technical assistance to aid communities in establishing multidisciplinary programs that respond to child abuse.

"(2) GRANT RECIPIENTS.—A grant recipient under this section shall—

"(A) assist communities—

"(i) in developing a comprehensive, multidisciplinary response to child abuse that is designed to meet the needs of child victims and their families;

"(ii) in establishing a freestanding facility where interviews of and services for abused children can be provided;

"(iii) in preventing or reducing trauma to children caused by multiple contacts with community professionals;

"(iv) in providing families with needed services and assisting them in regaining maximum functioning;

"(v) in maintaining open communication and case coordination among community professionals and agencies involved in child protection efforts;

"(vi) in coordinating and tracking investigative, preventive, prosecutorial, and treatment efforts;

"(vii) in obtaining information useful for criminal and civil proceedings;

"(viii) in holding offenders accountable through improved prosecution of child abuse cases;

"(ix) in enhancing professional skills necessary to effectively respond to cases of child abuse thorough training; and

"(x) in enhancing community understanding of child abuse; and

"(B) provide training and technical assistance to local children's advocacy centers in its census region that are grant recipients under section 214.

"(c) OPERATION OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—

"(1) SOLICITATION OF PROPOSALS.—Not later than 1 year after the date of enactment of this section, the Administrator shall solicit proposals for assistance under this section.

"(2) MINIMUM QUALIFICATIONS.—In order for a proposal to be selected, the Administrator may require an applicant to have in existence, at the time the proposal is submitted, 1 or more of the following:

"(A) A proven record in conducting activities of the kinds described in subsection (c).

"(B) A facility where children who are victims of sexual or physical abuse and their nonoffending family members can go for the purpose of evaluation, intervention, evidence gathering, and counseling.

"(C) Multidisciplinary staff experienced in providing remedial counseling to children and families.

"(D) Experience in serving as a center for training and education and as a resource facility.

"(E) National expertise in providing technical assistance to communities with respect to the judicial handling of child abuse and neglect.

"(3) PROPOSAL REQUIREMENTS.—

"(A) IN GENERAL.—A proposal submitted in response to the solicitation under paragraph (1) shall—

"(i) include a single or multiyear management plan that outlines how the applicant will provide information, services, and technical assistance to communities so that communities can establish multidisciplinary programs that respond to child abuse;

"(ii) demonstrate the ability of the applicant to operate successfully a multidisciplinary child abuse program or provide training to allow others to do so; and

"(iii) state the annual cost of the proposal and a breakdown of those costs.

"(B) CONTENT OF MANAGEMENT PLAN.—A management plan described in paragraph (3)(A) shall—

"(i) outline the basic activities expected to be performed;

"(ii) describe the entities that will conduct the basic activities;

"(iii) establish the period of time over which the basic activities will take place; and

"(iv) define the overall program management and direction by—

"(I) identifying managerial, organizational, and administrative procedures and responsibilities;

"(II) demonstrating how implementation and monitoring of the progress of the children's advocacy program after receipt of funding will be achieved; and

"(III) providing sufficient rationale to support the costs of the plan.

"(4) SELECTION OF PROPOSALS.—

"(A) COMPETITIVE BASIS.—Proposals shall be selected under this section on a competitive basis.

"(B) CRITERIA.—The Administrator, in coordination with the Director, shall select proposals for funding that—

"(i) best result in developing and establishing multidisciplinary programs that respond to child abuse by assisting, training, and teaching community agencies and professionals called upon to respond to child abuse cases;

"(ii) assist in resolving problems that may occur during the development, operation, and implementation of a multidisciplinary program that responds to child abuse; and

"(iii) carry out the objectives developed by the Board under subsection (e)(2)(A);

"(C) to the greatest extent possible and subject to available appropriations, ensure that at least 1 applicant is selected from each of the 4 census regions of the country; and

"(D) otherwise best carry out the purposes of this section.

"(5) FUNDING OF PROGRAM.—From amounts made available in separate appropriation Acts, the Administrator shall provide to each grant recipient the financial and technical assistance and other incentives that are necessary and appropriate to carry out this section.

"(6) COORDINATION OF EFFORT.—In order to carry out activities that are in the best interests of abused and neglected children, a grant recipient shall consult with other grant recipients on a regular basis to exchange ideas, share information, and review children's advocacy program activities.

"(d) REVIEW.—

"(1) EVALUATION OF REGIONAL CHILDREN'S ADVOCACY PROGRAM ACTIVITIES.—The Administrator, in coordination with the Director, shall regularly monitor and evaluate the activities of grant recipients and shall determine whether each grant recipient has complied with the original proposal and any modifications.

"(2) ANNUAL REPORT.—A grant recipient shall provide an annual report to the Administrator and the Director that—

"(A) describes the progress made in satisfying the purpose of the children's advocacy program; and

"(B) states whether changes are needed and are being made to carry out the purpose of the children's advocacy program.

"(3) DISCONTINUATION OF FUNDING.—

"(A) FAILURE TO IMPLEMENT PROGRAM ACTIVITIES.—If a grant recipient under this section substantially fails in the implementation of the program activities, the Administrator shall not discontinue funding until reasonable notice and an opportunity for reconsideration is given.

"(B) SOLICITATION OF NEW PROPOSALS.—Upon discontinuation of funding of a grant recipient under this section, the Administrator shall solicit new proposals in accordance with subsection (c).

"(e) CHILDREN'S ADVOCACY ADVISORY BOARD.—

"(1) ESTABLISHMENT OF BOARD.—

"(A) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Administrator and the Director, after consulting with representatives of community agencies that respond to child abuse cases, shall establish a children's advocacy advisory board to provide guidance and oversight in implementing the selection criteria and operation of the regional children's advocacy program.

"(B) MEMBERSHIP.—(i) The board—

"(I) shall be composed of 12 members who are selected by the Administrator, in coordination with the Director, a majority cf whom shall be individuals experienced in the child abuse investigation, prosecution, prevention, and intervention systems;

"(II) shall include at least 1 member from each of the 4 census regions; and

"(III) shall have members appointed for a term not to exceed 3 years.

"(ii) Members of the Board may be reappointed for successive terms.

"(2) REVIEW AND RECOMMENDATIONS.—

"(A) OBJECTIVES.—Not later than 180 days after the date of enactment of this section and annually thereafter, the Board shall develop and submit to the Administrator and the Director objectives for the implementation of the children's advocacy program activities described in subsection (b).

"(B) REVIEW.—The board shall annually—

"(i) review the solicitation and selection of children's advocacy program proposals and make recommendations concerning how each such activity can be altered so as to better achieve the purposes of this section; and

"(ii) review the program activities and management plan of each grant recipient and report its findings and recommendations to the Administrator and the Director.

"(3) RULES AND REGULATIONS.—The Board shall promulgate such rules and regulations as it deems necessary to carry out its duties under this section.

"(f) REPORTING.—The Attorney General and the Secretary of Health and Human Services shall submit to Congress, by March 1 of each year, a detailed review of the progress of the regional children's advocacy program activities.".

(c) LOCAL CHILDREN'S ADVOCACY PROGRAM.—Section 214 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13002), as redesignated by subsection (b)(1), is amended—

(1) by amending the heading to read as follows:

**"SEC. 214. LOCAL CHILDREN'S ADVOCACY CENTERS.";**

(2) in subsection (a) by striking "The Director of the Office of Victims of Crime (hereinafter in this subtitle referred to as the 'Director'), in consultation with officials of the Department of Health and Human Services," and inserting "The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime,";

(3) in subsection (b)(2)(B) by inserting "and nonoffending family members" after "neglect"; and

(4) by adding at the end the following new subsection:

"(d) CONSULTATION WITH REGIONAL CHILDREN'S ADVOCACY CENTERS.—A grant recipient under this section shall consult from time to time with regional children's advocacy centers in its census region that are grant recipients under section 213.".

(d) SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—Section 214A of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13003), as redesignated by subsection (b)(1), is amended in subsections (a) and (c)(1) by striking "Director" and inserting "Administrator".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004), as redesignated by subsection (b)(1), is amended to read as follows:

**"SEC. 214B. AUTHORIZATION OF APPROPRIATIONS.**

"(a) SECTIONS 213 AND 214.—There are authorized to be appropriated to carry out sections 213 and 214—

"(1) $15,000,000 for fiscal year 1993; and

"(2) such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(b) SECTION 214A.—There are authorized to be appropriated to carry out section 214A—

"(1) $5,000,000 for fiscal year 1993; and

"(2) such sums as are necessary for fiscal years 1994, 1995, and 1996.".

**SEC. 7. HEAD START TRAINING IMPROVEMENT.**

(a) PURPOSE.—It is the purpose of this section—

(1) to promote continued access for Head Start and other early childhood staff to the Child Development Associate credential;

(2) to increase the ability of Head Start staff to address the problems facing Head Start families;

(3) to create a systematic approach to training, thereby improving the quality of Head Start instruction and using training funds more efficiently and effectively; and

(4) to allow the use of training funds for creative approaches to learning for children.

(b) TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS.—Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (a) by striking "(2) training" and all that follows through the end of the subsection and inserting "(2) training for specialized or other personnel needed in connection with Head Start programs, including funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children."; and

(2) by adding at the end the following new subsections:

"(c) The Secretary shall—

"(1) develop a systematic approach to training Head Start personnel, including—

"(A) specific goals and objectives for program improvement and continuing professional development;

"(B) a process for continuing input from the Head Start community; and

"(C) a strategy for delivering training and technical assistance; and

"(2) report on the approach developed under paragraph (1) to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

"(d) The Secretary may provide, either directly or through grants to public or private nonprofit entities, training for Head Start personnel in the use of the performing and visual arts and interactive programs using electronic media to enhance the learning experience of Head Start children.".

**SEC. 8. AMENDMENTS TO CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT.**

(a) SPENDING OF FUNDS BY STATES.—Section 658J(c) of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858h(c)) is amended—

(1) by striking "obligated" and inserting "expended"; and

(2) by striking "succeeding fiscal year" and inserting "succeeding 3 fiscal years".

(b) PAYMENTS EXCLUDED FROM INCOME.—The Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858a et seq.) is amended by adding at the end the following new section:

**"SEC. 658S. MISCELLANEOUS PROVISIONS.**

"Notwithstanding any other law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need.".

(c) TECHNICAL AMENDMENTS.—

(1) CORRECTION IN CITATION.—Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by striking "title IV" and inserting "title VI".

(2) DEFINITIONS.—Section 658P of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858n) is amended—

(A) in paragraph (7), by striking "4(b)" and inserting "4(e)"; and

(B) in paragraph (14), by striking "4(c)" and inserting "4(l)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of enactment of this Act.

(2) APPLICATION.—The amendments made by this section shall not apply with respect to fiscal years beginning before October 1, 1992.

**SEC. 9. AMENDMENT TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT.**

(a) FINDINGS.—The Congress finds that—

(1) circumstances surrounding the death of a young boy named Adam Mann in New York City prompted a shocking documentary focusing on the inability of child protection services to protect suffering children;

(2) the documentary described in paragraph (1) showed the serious need for systemic changes in our child welfare protection system;

(3) thorough, coordinated, and comprehensive investigation will, it is hoped, lead to the prevention of abuse, neglect, or death in the future;

(4) an undue burden is placed on investigation due to strict Federal and State laws and regulations regarding confidentiality;

(5) while the Congress recognizes the importance of maintaining the confidentiality of records pertaining to child abuse, neglect, and death, often the purpose of confidentiality laws and regulations are defeated when they have the effect of protecting those responsible;

(6) comprehensive and coordinated interagency communication needs to be established, with adequate provisions to protect against the public disclosure of any detrimental information need to be established;

(7) Certain States, including Georgia, North Carolina, California, Missouri, Arizona, Minnesota, Oklahoma, and Oregon, have taken steps to establish by statute interagency, multidisciplinary fatality review teams to fully investigate incidents of death believed to be caused by child abuse or neglect;

(8) teams such as those described in paragraph (7) should be established in every State, and their scope of review should be expanded to include egregious incidents of child abuse and neglect before the child in question dies; and

(9) teams such as those described in paragraph (7) will increase the accountability of child protection services.

(b) MODIFICATION OF CONFIDENTIALITY PROVISION REGARDING STATE GRANTS UNDER CHILD ABUSE PREVENTION AND TREATMENT ACT.—Section 107(b)(4) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106A(b)(4)) is amended to read as follows:

"(4) provide for—

"(A) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including methods to ensure that disclosure (and redisclosure) of information concerning child abuse or neglect involving specific individuals is made only to persons or entities that the State determines have a need for such information directly related to purposes of this Act; and

"(B) requirements for the prompt disclosure of all relevant information to any Federal, State, or local governmental entity, or any agent of such entity, with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;".

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that each State should review and reform of the system in the State for protecting against child abuse and neglect, including implementing formal interagency, multidisciplinary teams—

(1) to review—

(A) all cases of child death in which the child was previously known by the State to have been abused or neglected; and

(B) incidents of child abuse before a child dies when there is evidence of negligent handling by the State,

in order to hold the State accountable; and

(2) to make recommendations regarding the outcomes of individual cases and systemic changes in the State's procedures for protecting against child abuse and neglect.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

GENERAL LEAVE

Mr. MARTINEZ. 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 matter, on the resolution, House Resolution 594.

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

There was no objection.

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

Mr. Speaker, we are here to vote on passage of a substitute amendment to the Senate's substitute amendment to H.R. 5194, the Juvenile Justice and Delinquency Prevention Amendments of 1992, the reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 and Runaway and Homeless Youth Act.

Before I begin my remarks, I would like to take the time to thank Chairman FORD and my colleagues from the other side of the aisle, Mr. GOODLING, ranking member of the Education and Labor Committee, and Mr. FAWELL, ranking member of the Human Resources Subcommittee for their tireless efforts in helping to put together this truly bipartisan bill.

Mr. Speaker, H.R. 5194 reflects a blending of the components of both the original House and Senate versions of the act.

It contains vital components, such as study of violence by and against juveniles in both urban and rural settings. It creates incentives for states and local jurisdictions to enter into innovative public/private partnerships and, it creates incentives to encourage State and local jurisdictions to create community systems of care, involving interagency collaborative efforts.

It also provides for two new gang intervention programs: one that requires local education agency involvement with other local, public and private institutions in providing a broad variety of prevention and intervention activities; and the other is aimed specifically at the more hard-core gang members providing for the development of regional task forces involving State, local and community-based organizations to coordinate enforcement, intervention, and treatment efforts and to curtail interstate activities of gangs.

It allows state challenge activities that provide for additional funding for states that implement new and innovative policies for dealing with youth; It creates a new title for front-end prevention services, providing desperately needed support for counties and local governments; and, it creates a mentoring program for at-risk youth that encourages collaboration between schools and other private and public agencies.

It also allows for a new innovative boot camp program that provides a program of discipline combined with educational and job training components; and it provides for a White House Conference on Juvenile Justice which will allow the sharing of ideas and information between practitioners, academics, and the youth themselves.

The bill also allows the continuation of vital services to our runaway and homeless youth. The Runaway and Homeless Youth Act is the safety net with which we rescue those young people, who find themselves lost and confused without family support.

The act provides basic services through community-based agencies to alleviate the problems of runaways through the provision of temporary shelter, supportive services and counseling—and whenever possible, reuniting them with their families. The act also provides funding for transitional living programs that provide long-term shelter and life skills training to homeless youth who are attempting to make that transition into an adult world.

Finally, H.R. 5194 creates a national children's advocacy program for victims of sexual and physical abuse that focuses attention on the child victim and provides support for the nonoffending family members by improving the resources available to them.

This legislation is committed to addressing today's immediate issues concerning youth and will make the necessary structural changes to the JJDPA in this reauthorization cycle to ensure the future of our youth.

Mr. Speaker, this bill represents a bipartisan and bicameral effort to address the ravages of social disease on our youth and our communities. H.R. 5194 is a keystone in the foundation of the future of our children. I ask for your support in passing this legislation.

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

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

Mr. Speaker, from the Commonwealth of Pennsylvania, I rise in support of H.R. 5194, reauthorizing the Juvenile Justice and Delinquency Prevention Act of 1974.

The legislation before us today represents a compromise between the House and Senate-passed bills. Programs authorized under this act are vitally important to communities dealing with increasing numbers of crimes committed by juveniles, particularly those communities dealing with an increase in violent crimes. It provides for programs of prevention, intervention, and treatment, and programs which address the problems created by the growing numbers of youth gangs.

In addition, this legislation attempts to increase coordination between a youth's home school and the facility where they are currently residing, whether it is a juvenile detention facility or a runaway or a homeless shelter.

Due to the strong correlation between poor academic achievement and juvenile delinquency, this provision could prove to be a key prevention tool. By ensuring these youth can keep up with their classmates while they are not attending their school, we can increase the chance that they will stay in school and succeed academically once they return to their homes.

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If we can help these youths stay in school and off the streets, we are taking a giant step toward eliminating their future participation in delinquent activities. As a former educator, I am particularly pleased to see these provisions in the act.

Mr. Speaker, there is another provision in H.R. 5194 which I would like to call to the attention of my colleagues. Part G of this act authorizes the administrator to make grants for mentoring programs. As I have mentioned previously, my office has mentored several students from D.C. public schools and found it to be a rewarding experience for all involved. The young man, came to us when he was in the eighth grade, our first student, and will graduate this school year. Some of you may actually have met Lydell Mitchell when I brought him to the floor. When we first met Lydell, he was very shy and hesitated to look at people when he was talking to them. If you met him today, he would look you straight in the eye and give you a big smile and a hearty handshake. Lydell has become a fine young man and I would like to think my office played at least a small role in helping him stay in school and graduate. He became a part of our office family, and they took him everywhere. We are very proud of him.

The mentoring section in this bill contains many of the provisions of the mentoring program I offered as a part of my substitute to the Neighborhood Schools Improvement Act and that Act is a joke, which fortunately we will not have to witness again during this session, and involves local schools, businesses, and public and private organizations in mentoring programs for youth at risk of dropping out, of educational failure and of involvement in delinquent activities and gang participation. Mentoring programs work! Hopefully the provisions contained in this legislation will allow other local communities to develop mentoring programs.

Finally, I would like to point out some important changes to the Runaway and Homeless Youth Act, which is title II of this act. This legislation calls for greater home-based and street-based services for youth. These services are designed to target troubled youth and provide the most effective interventions, such as greater family involvement before these youth be-

come involved in delinquent activities. I want to commend Congressman FAWELL for insisting that these services be included as part of the Basic Center Program. This will facilitate coordination in providing these youth with the new services and all of the other services and resources available to them.

Mr. Speaker, I want to commend Chairman MARTINEZ and Congressman FAWELL for their efforts to make meaningful changes to this important act. I would also like to commend Congressmen KILDEE for his revisions to the gang prevention section of the law.

I also want to thank the staff, Lee Cowen, Lynn Selmser, Roger McClellan, Becky Franck, Terry Deschler, and Alan Lapatin, and remind the Members, as always, they always have four to every two that we have. Again, they did an outstanding job and are to be complimented.

Mr. Speaker, I yield whatever time he may consume to the gentlemen from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I thank my colleague from Pennsylvania for yielding me the time.

Mr. Speaker, I would like to engage in a colloquy with our colleague, the chairman of the subcommittee with jurisdiction over this act.

In July 1990, the Office of Juvenile Justice and Delinquency Prevention approved a plan submitted by the State of Wisconsin which allowed Wisconsin additional time to complete statutory and regulatory changes, and specified conditions under which Wisconsin would be deemed in compliance with the act. Approval of this plan—confirmed by letter from Robert Sweet, administrator to Jerome Lacke, executive director, Wisconsin Office of Justice Assistance, dated July 17, 1990—represented a good faith agreement with Wisconsin which Wisconsin has been diligently implementing.

It is my understanding that it is not the intent of this legislation to abrogate that agreement, and that the House committee report contains language on page 30 which protects Wisconsin's participation under the act, including the state formula block grant portion of the act, as long as Wisconsin meets the requirements of the agreed to jail removal plan.

Is this also the gentleman's understanding?

Mr. MARTINEZ. Mr. Speaker, will the gentlemen yield?

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

Mr. MARTINEZ. Yes; it is; the gentleman is correct. The gentleman is to be commended because he brought to our attention a special situation that exists in Wisconsin, and I want to assure the gentleman that we have provided language in the report that does take into account the agreement that was made with the Office of JJDP, and there is language in the report to protect that agreement.

Mr. PETRI. Mr. Speaker, I include for the RECORD the House committee report language protecting Wisconsin's participation under the act at this point.

In December of 1988, Wisconsin Governor Tommy G. Thompson notified OJJDP that Wisconsin was conditionally withdrawing from participation in the state formula grant portion of the Juvenile Justice and Delinquency Prevention Act. In June 1989, Governor Thompson notified OJJDP that the State of Wisconsin would not submit a plan for 1989 and would not participate in the Act. In April 1990, the Administrator of OJJDP was asked to reassess Wisconsin's Jail and Lockup Removal Plan. After negotiating a compromise, Wisconsin submitted a revised plan which was approved by OJJDP in July of 1990, providing additional time to complete regulatory and statutory changes necessary to implementing the plan through the issuance of a waiver of termination as authorized under the Act (section 223) and regulations (28 CFR 31.303). This plan specified certain criteria to be met in order for Wisconsin to be in compliance with the Act, and the terms for compliance. Terms agreed to include the use of common staff for both adult and juvenile facilities, provided that the staff is not used in both the adult and juvenile centers at the same time or on the same day, and that such staff be trained and certified to work with juveniles in detention. Such training is to be consistent with national standards for juvenile detention staff.

Although the committee feels that the use of common staff for both juvenile and adult offenders should be prohibited, it also recognizes that the State of Wisconsin entered into an agreement in good faith with the Office of Juvenile Justice and Delinquency Prevention and has been in the process of implementing its plan for the past two years. The committee does not consider it appropriate to supplant this agreement but directs the Office to closely monitor the effects it has on juveniles in custody and report the results to the Chair of the House Committee on Education and Labor and the Chair of the Senate Committee on the Judiciary by December 31, 1995.

If the State of Wisconsin fails to meet the requirements of the "Jail Removal Plan" agreement as described in its state plan and as approved by the Office of Juvenile Justice and Delinquency Prevention (confirmed by letter from Robert Sweet, Administrator, to Jerome Lacke, Executive Director, Wisconsin Office of Justice Assistance, dated July 17, 1990) such that the State is no longer in compliance with the terms of the Act and becomes a nonparticipating State, the State would be required, in order to resume participation, to submit a new state plan for approval by the Office under the statutes and regulations in effect at the time of application.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. FAWELL], who played a leading role in helping the gentleman from California [Mr. MARTINEZ] come us with an outstanding bill.

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in support of the House/Senate agreement on H.R. 5194, the Juvenile Justice and Delinquency Prevention Act of 1992. This bill reauthorizes three programs which are vital to the well-being of this country's youth: The Juvenile Justice and Delinquency Prevention Act, the Runaway and Homeless Youth Act, an the Missing Children's Act.

I want to thank Congressman MARTINEZ, the chairman of the Human Resources Subcommittee, for the bipartisan manner in which this reauthorization process has been conducted—from the handling of hearing sites and witnesses through the development of changes in these important laws. I also would like to thank Senators BROWN and KOHL for their hard work and for the cooperative nature of the House/Senate negotiations on this agreement.

The legislation we are voting on today provides important services to at-risk youth, whether they are runaways, homeless youth or youth involved in the juvenile justice system. By providing assistance to these young people today, we are insuring they will become productive members of society tomorrow, instead of part of the adult criminal justice system.

In both the Juvenile Justice and Delinquency Prevention Act and the Runaway and Homeless Youth Act, we have added language that will provide counseling to youth and their families before the youth returns home from a detention center or runaway shelter. While aftercare is important, I also believe families should receive counseling before the youth returns home to help insure the same circumstances which led the youth to become involved in delinquent activities or to leave home do not reoccur.

A provision for home-based alternative services has been included in the bill, and I would certainly encourage the use in this area of the innovative home detention program that exists in my district—the 13th Congressional District of Illinois—as a successful alternative to incarceration. On April 7 of this year, Jean Peerson, chief probation officer of the DuPage County Department of Probation and Court Services and Pat McGrath, superintendent of the DuPage County Youth House, testified before the Subcommittee on Human Resources about the innovative home detention program they have developed which allows them to treat youth locally rather than sending them to other jurisdictions when their detention facility is overcrowded. The have a 79-percent success rate, which is at least partially due to their ability to work with the youth and their family at the same time since the youth remains at home. I want to commend these hard working people for helping to get these children and their families back on the right track.

I have talked to many people in my district that work with these programs and I have heard testimony from experts in these areas who have explained the benefits and necessity of these pro-

grams to me. Based on this information, I strongly believe that these programs deserve increased funding in order to solidify and hopefully expand the progress being made. These programs speak for themselves and their success has been verified.

Finally, I want to applaud Congressman GOODLING, the ranking minority member of our committee, for his school coordination and mentoring provisions in this bill. They are both excellent additions to this legislation. Mr. Speaker, I encourage all of my colleagues to support this comprehensive reauthorization package.

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Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

Mr. Speaker, before I yield back the balance of my time, I just wanted to again reiterate the great pleasure it was working with the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Illinois [Mr. FAWELL] on this legislation and to thank the gentleman from Pennsylvania [Mr. GOODLING] for naming the members of our staff on the Subcommittee on Human Resources who worked so diligently on this piece of legislation.

Mr. WYDEN. Mr. Speaker, I strongly support H.R. 5194 and commend the work of the committee, and particularly Chairman MARTINEZ, for their tireless work in completing this bill.

This spring, at my request and the request of Congresswoman JOLENE UNSOELD, the Subcommittee on Human Relations conducted a field hearing in my district in Portland, OR.

The testimony we heard was alarming, and provided proof that criminal youth gang activity is not just a problem restricted to large urban centers. It is also striking small towns and rural areas throughout the country, and particularly in California and the Northwest. Young people from all social, ethnic and economic backgrounds are at risk. This is not just a problem of the inner city poor.

The Portland Police Bureau Gang Enforcement Team estimates that gang membership in Portland has mushroomed in the last 3 years, from 357 identified gangsters in 1989 to 2,343 in 1992.

Oregon Police have reports of Hispanic and Asian gangs moving up and down Highway 97 selling narcotics and spreading violence as far away as Yakima, WA.

Police have identified 85 gang affiliates between Baker City and Ontario, in rural eastern Oregon, and there's evidence that Crips, a California-based gang, has slipped into Klamath Falls in southern Oregon and is dealing drugs and illegal firearms.

In a worrisome twist to criminal gang activities, national hate groups are recruiting and directing Skinheads, with their frightening agenda of racism and hatred.

Last year $81 million was spent as part of the Juvenile Justice and Delinquency Prevention Act. Oregon received just $480,000 of that money, all of which went to a much-needed outreach program for teenagers girls in gangs.

Less then $2 million in State and local resources are devoted to gang intervention each year in Oregon. In Portland, there are only three halfway homes for teenage boys who want to leave the streets, and each can only house a handful of youths at a time. These three programs cannot handle the 2,000-plus gang-affected youth in the area.

The hearing uncovered a great need in Portland for new and innovative approaches to the gang problem. It also exposed the desperate need, not only in Oregon, but throughout the region, for a greater Federal commitment to fighting the scourge of youth gang crime.

Three recommendations emerged from this hearing, and I am pleased that they were included in H.R. 5194. The first was a recommendation that a regional approach be taken to both prevention and enforcement of gang activity. This provision allows law enforcement and social service programs to develop of community-based gang intervention programs including regional gang programs that will encompass enforcement, intervention and treatment for gang-affected youths.

In the Northwest, we have seen an alarming increase in organized gang activity stretching from Los Angeles to Seattle spreading among rural and suburban communities. This provision would give our States the ability to coordinate activities between the States and communities to prevent and combat criminal gang activity.

The second recommendation was for increased funding for intervention and prevention grants for States. The gang-free schools and communities programs create innovative intervention programs that involve the families, schools and communities of gang-affected youth.

The third critical point that was made in the hearing in Portland was that the grant formula for these programs should not be based on population of the State or region, but on the severity of the gang problem in the area. Now small States with large gang problems will have the opportunity to receive critical Federal support.

H.R. 5194 provides hope to communities seeking relief from the tragic and frightening youth gang problem, and I urge my colleagues to support it.

Mr. FORD of Michigan. Mr. Speaker, I rise today in strong support of the reauthorization of the Juvenile Justice and Delinquency Prevention Act. I want to congratulate Mr. MARTINEZ, the chairman of the Subcommittee on Human Resources, and Mr. FAWELL, the ranking minority member for working so hard to bring the House a bipartisan bill.

The intent of this act in 1974 was to rehabilitate juveniles in an effort to stop juvenile criminal offenders from becoming adult criminal offenders. In today's political climate where a too ready answer to rising juvenile crime tends to be locking kids up and waiving 14-, 13-, and even 12-year-olds up to the adult justice system, it is imperative that we step back and reexamine the disparity between the intent of the initial JJDP Act and where the juvenile justice system is actually heading today.

The Juvenile Justice and Delinquency Act provides a Federal framework for States with regard to much needed services for youths and their families. Strong emphasis is placed on a preventive and interventive approach by working not only with the resulting problems, but also with families in an attempt to change the factors, such as physical and mental abuse, education, and drug and alcohol abuse, which contribute to delinquent behavior.

Locking kids up does not work to make them law abiding citizens. This bill reiterates the intent of the initial JJDP Act by directing that appropriate treatment for juvenile delinquents take into account the whole youth, not just his or her delinquent behavior.

This bill works to insure that appropriate treatment acknowledges the distinction made between violent and nonviolent juvenile offenders, that youth are not locked up with adults, and that status offenders are not locked up at all.

Highlights of the bill include education, comprehensive and coordinated community-based services and alternatives to incarceration, mental health services, and family-involved alternative services. Special studies are included to examine gender-specific services, juveniles waived to adult courts, hate crimes, and violent crimes committed by and against juveniles in urban and rural areas.

The gang prevention and intervention section has been expanded to focus on targeting elementary school children, family preservation, community empowerment, and holding juveniles responsible for their actions.

The bill also reauthorizes the Runaway and Homeless Youth Program with various improvements, including expanding the basic grant provision to include home-based and street-based services. And the bill reauthorizes the Missing and Exploited Children's Act for another 4 years.

Mr. Speaker, the Juvenile Justice and Delinquency Prevention Act is authorized at $150 million in fiscal year 1993 and such sums as may be appropriated thereafter. I regret that we find ourselves in a situation where the bill is funded at no more than half its authorized level.

I urge my colleagues to join me in support of this important legislation.

Mr. KILDEE. Mr. Speaker, I rise in support of H.R. 5194, the Juvenile Justice and Delinquency Prevention Amendments of 1992, which extends the Juvenile Justice and Delinquency Prevention Act of 1974 for 4 additional years.

This bill makes many important improvements in the act.

The first is the new title II, Gang-Free Schools and Communities Program which is identical to H.R. 5175, The Gang-Free Schools and Communities Act, which I introduced earlier this year with other members of the subcommittee. This replaces the existing program which was enacted in 1988 and which, unfortunately, has accomplished little except for research. This new program authorizes $25 million primarily to support local service projects designed to help organize and support gang prevention and intervention projects that substantially involve public schools.

Educational services, when coordinated with social and mental health services available through community-based youth services or-

ganizations and other public agencies, can become powerful tools to prevent youth from joining or participating in gang activities. Youth who are, or may become, gang members must have access to these kinds of comprehensive services if we want them to participate in lawful, constructive activities, and to make safe and healthy decisions about their futures.

The second improvement relates to the issue of the so-called valid court order. This provision of the law provides an exception to the requirement that status offenders are to be treated in nonsecure facilities in cases where a youth violates a valid order of the court. I opposed the adoption of this exception 12 years ago and have continued to have concerns about its use. The bill provides for local reviews of these orders to ensure that runaways and other status offenders will not be held in secure detention if nonsecure treatment options are available in the community.

Additionally, H.R. 5194 provides for other important improvements including:

First, new requirements for States to reduce any disproportionate incarceration of minority youth and to establish comprehensive and coordinated community systems of services;

Second, new State plan requirements which place a stronger emphasis on dropout prevention and on maintaining and strengthening families;

Third, a new authorization for monitoring programs; and

Fourth, authority for the Secretary of Health and Human Services to make grants to runaway centers to support the provision of street-based as well as home-based services when the appropriation for the Runaway and Homeless Youth Act exceeds $50 million.

Mr. Speaker, H.R. 5194 continues the tradition of bipartisan support which has always attended the Juvenile Justice and Delinquency Prevention Act. I want to express my appreciation for the hard work of the subcommittee chairman, Mr. MARTINEZ, and the ranking Republican, Mr. FAWELL. They have brought us an excellent bill which I am pleased to support.

Mr. RICHARDSON. Mr. Speaker, the Juvenile Justice and Delinquency Prevention Act has had a major impact on our juvenile justice system for 18 years. It has determined the role our Federal Government will take in these proceedings and, more importantly, it has provided States with guidelines and programs to help address the needs of troubled youth.

I believe the legislation before us today will help improve the existing system so that we may address the increase of crime activity among youth our society is experiencing and target at-risk youth to prevent criminal activity before it starts.

While I will be supporting this legislation, as one of the Representatives from New Mexico, I am compelled to express concerns about the impact some of the provisions included in H.R. 5194 will have on rural, geographically isolated and financially strapped States like New Mexico.

In New Mexico, we receive $325,000 annually that must be divided among 33 counties for facilities, the providing of staff and training, the transportation of juveniles to certified juvenile detention centers and nonsecure alternatives to detention centers such as shelter homes. This is not a lot of money—as a matter of fact, it is the minimum amount required within the statute. While this is not a lot of money, I believe New Mexico has gone to great lengths to protect those juveniles in detention centers and promote a high quality of care.

A provision included in H.R. 5194 would prohibit the sharing of detention staffers under any circumstances and would only allow a waiver from meeting each and every mandate until fiscal year 1994. After that each State would see a reduction in funding by 25 percent for each mandate it failed to meet.

In New Mexico's case, many counties barely have enough funding to hire one set of trained detention staffers let alone two separate staffers. While I understand the intent of this language, I am concerned that rural counties are already having difficulty hiring enough detention staff on existing funding without being further penalized with reduced funding due to their inability to meet staffing mandates. Additionally, their efforts to ensure the safety and security of juveniles and specialized training for detention officers that work with youth are not being taken into consideration.

As I stated earlier, I will be supporting this legislation but I hope both the Committee and the Department of Justice will keep these issues in mind for future legislation and rulemaking.

Mr. CRAMER. Mr. Chairman, I rise today to join my colleagues in supporting the reauthorization of the Juvenile Justice and Delinquency Prevention Act.

This reauthorization measure is important for several reasons. It helps to strengthen families. A strong, self-confident, and loving family is our best defense against the crisis of delinquency. Enriching local communities through Federal assistance so that those communities can actively act on behalf of children and families is accomplished in the reauthorization bill. This bill strengthens our delinquency prevention efforts. The old adage is aptly applied here: An ounce of prevention is worth a pound of cure. It is more effective in both human and fiscal terms to prevent delinquency than to attempt to control or change it after the fact.

I would like to thank Chairman MARTINEZ of the Human Resources Subcommittee and the entire Education and Labor Committee for the excellent work that has been done to address the needs of juveniles, prevent delinquency and help local communities address their unique situations. Chairman MARTINEZ willingly and diligently worked with me and several others to incorporate into the bill a children's advocacy section designed to help prevent juvenile delinquency and minimize the trauma a child may experience due to physical and sexual abuse.

I would also like to thank Chairman OWENS of the Select Education Subcommittee and Chairwoman SCHROEDER of the Select Committee on Children, Youth, and Families for their support on the National Children's Advocacy Program Act of 1992 that is included in the reauthorization package. We were fortunate to have a number of Members support the bill from both sides of the aisle. I appreciate their support.

In the other body, I would like to commend Chairman BIDEN for his leadership. In 1990, Chairman BIDEN sponsored the Victims of Child Abuse Act. That Act highlighted the benefits of the multidiciplinary team approach to addressing child abuse and neglect reports. Chairman BIDEN was interested in my bill H.R. 4729, saw the merits of it and how it complemented his previous efforts. Working with the Judiciary Committee, we were able to incorporate H.R. 4729 into the Victims of Child Abuse Act of 1990.

Chairman KOHL and his staff were of great assistance in helping us craft a responsible measure that would enhance the reauthorization of the Juvenile Justice and Delinquency Prevention Act. Additionally, Senator NICKLES, the Senate primary sponsor of the National Children's Advocacy Program Act of 1992, and my senior Alabama Senator, Senator HEFLIN, were instrumental in helping us raise this issue in that body.

If I may take a few moments, I would like to discuss the purpose of section 6 of the reauthorization package. The purpose of the Children's Advocacy Program is to provide information, services, and assistance to communities so that such communities can establish multidiciplinary teams and programs to respond to child abuse.

First, the bill makes the child the central focus and works to protect the child, punish the offender, and prevent such future heinous acts. Second, the bill will, in the long term, establish a national network of comprehensive, community-based child abuse intervention, prevention, prosecution, and investigation programs. Third, the program established by this bill will provide training on the most effective community-based treatment approaches to child physical and sexual abuse and will disseminate the information so that there will be a continuous replication of the training.

Fourth, the bill does not establish a particular model that must be followed—to the contrary it allows a community to design a program that fits that community's particular needs, including being culturally responsive. Fifth, the Children's Advocacy Program recognizes the importance of training physicians and other health care professionals in the multidisciplinary approach to child abuse so that trained personnel will be available to provide medical support to community agencies that respond to child abuse. Sixth, the bill establishes a Children's Advocacy Advisory Board that will ensure that the program being implemented is addressing the needs that exist. A majority of the board members shall be individuals experienced in child abuse investigation, prosecution, prevention, and intervention systems.

The bill before us recognizes that child abuse and neglect is all too often a precursor of juvenile delinquency. Multidisciplinary child abuse programs yield the future benefits of preventing adolescent criminal behavior. These programs help break the chain of abusive behavior. Study upon study shows that there is a relationship between the child abuse and juvenile delinquency.

One of the bigger problems many communities are facing, regardless of size or geographic location, is the problem of runaways or thrownaways. Researchers report that large

numbers of runaway or thrownaway youth were subjected to physical or sexual abuse prior to leaving the household. Some runaway adolescents use illegal drugs, engage in prostitution, or participate in other types of illegal activities that may bring them into contact with the juvenile justice system.

The weight of the evidence indicates a relationship between child maltreatment and delinquency. Studies continue to show that child abuse and neglect are related to delinquency. Thus, to the extent we are able to effectively address child abuse cases, we can positively impact the lives of abused children and prevent them from becoming delinquents or abusers themselves.

The U.S. Advisory Board on Child Abuse and neglect noted in its 1991 report that the Nation continually pays for the social and personal costs of substance abuse, eating disorders, depression, adolescent pregnancy, suicide, juvenile delinquency, prostitution, pornography, and violent crime—all of which may have substantial roots in childhood abuse and neglect. Our bill today is cost-effective preventive medicine.

This is not an inside-the-beltway proposal. It is a local community empowerment proposal. It is a proposal to help American cities, towns and villages. That is to say, the Children's Advocacy Program spreads the concept of the multifaceted, multidisciplinary and comprehensive approach to child abuse nationwide but makes sure that each community has the flexibility to design a program to fit its unique needs.

It assists prosecutors, courts, social services agencies and other agencies in helping abused children. That is a local responsibility; the Federal role should be limited. We are not looking for Washington to micromanage this program. Our bill calls for community enrichment.

Mr. MARTINEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLTER). The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and agree to the resolution, House Resolution 594.

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.

## INDIAN HEALTH AMENDMENTS OF 1992

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2481) to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes, as amended.

The Clerk read as follows:

S. 2481

*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 Health Amendments of 1992".

**SEC. 2. AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.**

Except as otherwise specifically provided, 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 Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

**SEC. 3. FINDINGS; POLICY; AND DEFINITIONS.**

(a) FINDINGS.—Section 2 of the Act (25 U.S.C. 1601) is amended—

(1) in the matter preceding paragraph (a), by striking "finds that—" and inserting "finds the following:";

(2) in paragraph (d), by striking out the second sentence; and

(3) by striking out paragraphs (e), (f), and (g).

(b) DECLARATION OF POLICY.—Section 3 of the Act (25 U.S.C. 1602) is amended to read as follows:

"DECLARATION OF HEALTH OBJECTIVES

"SEC. 3. (a) The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to assure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy.

"(b) It is the intent of the Congress that the Nation meet the following health status objectives with respect to Indians and urban Indians by the year 2000:

"(1) Reduce coronary heart disease deaths to a level of no more than 100 per 100,000.

"(2) Reduce the prevalence of overweight individuals to no more than 30 percent.

"(3) Reduce the prevalence of anemia to less than 10 percent among children aged 1 through 5.

"(4) Reduce the level of cancer deaths to a rate of no more than 130 per 100,000.

"(5) Reduce the level of lung cancer deaths to a rate of no more than 42 per 100,000.

"(6) Reduce the level of chronic obstructive pulmonary disease related deaths to a rate of no more than 25 per 100,000.

"(7) Reduce deaths among men caused by alcohol-related motor vehicle crashes to no more than 44.8 per 100,000.

"(8) Reduce cirrhosis deaths to no more than 13 per 100,000.

"(9) Reduce drug-related deaths to no more than 3 per 100,000.

"(10) Reduce pregnancies among girls aged 17 and younger to no more than 50 per 1,000 adolescents.

"(11) Reduce suicide among men to no more than 12.8 per 100,000.

"(12) Reduce by 15 percent the incidence of injurious suicide attempts among adolescents aged 14 through 17.

"(13) Reduce to less than 10 percent the prevalence of mental disorders among children and adolescents.

"(14) Reduce the incidence of child abuse or neglect to less than 25.2 per 1,000 children under age 18.

"(15) Reduce physical abuse directed at women by male partners to no more than 27 per 1,000 couples.

"(16) Increase years of healthy life to at least 65 years.

"(17) Reduce deaths caused by unintentional injuries to no more than 66.1 per 100,000.

"(18) Reduce deaths caused by motor vehicle crashes to no more than 39.2 per 100,000.

"(19) Among children aged 6 months through 5 years, reduce the prevalence of blood lead levels exceeding 15 ug/dl and reduce to zero the prevalence of blood lead levels exceeding 25 ug/dl.

"(20) Reduce dental caries (cavities) so that the proportion of children with one or more caries (in permanent or primary teeth) is no more than 45 percent among children aged 6 through 8 and no more than 60 percent among adolescents aged 15.

"(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 aged 6 through 8 and no more than 40 percent among adolescents aged 15.

"(22) Reduce to no more than 20 percent the proportion of individuals aged 65 and older who have lost all of their natural teeth.

"(23) Increase to at least 45 percent the proportion of individuals aged 35 to 44 who have never lost a permanent tooth due to dental caries or periodontal disease.

"(24) Reduce destructive periodontal disease to a prevalence of no more than 15 percent among individuals aged 35 to 44.

"(25) Increase to at least 50 percent the proportion of children who have received protective sealants on the occlusal (chewing) surfaces of permanent molar teeth.

"(26) Reduce the prevalence of gingivitis among individuals aged 35 to 44 to no more than 50 percent.

"(27) Reduce the infant mortality rate to no more than 8.5 per 1,000 live births.

"(28) Reduce the fetal death rate (20 or more weeks of gestation) to no more than 4 per 1,000 live births plus fetal deaths.

"(29) Reduce the maternal mortality rate to no more than 3.3 per 100,000 live births.

"(30) Reduce the incidence of fetal alcohol syndrome to no more than 2 per 1,000 live births.

"(31) Reduce stroke deaths to no more than 20 per 100,000.

"(32) Reverse the increase in end-stage renal disease (requiring maintenance dialysis or transplantation) to attain an incidence of no more than 13 per 100,000.

"(33) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

"(34) Reduce deaths from cancer of the uterine cervix to no more than 1.3 per 100,000 women.

"(35) Reduce colorectal cancer deaths to no more than 13.2 per 100,000.

"(36) Reduce to no more than 11 percent the proportion of individuals who experience a limitation in major activity due to chronic conditions.

"(37) Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.

"(38) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

"(39) Reduce diabetes-related deaths to no more than 48 per 100,000.

"(40) Reduce diabetes to an incidence of no more than 2.5 per 1,000 and a prevalence of no more than 62 per 1,000.

"(41) Reduce the most severe complications of diabetes as follows:

"(A) End-stage renal disease, 1.9 per 1,000.

"(B) Blindness, 1.4 per 1,000.

"(C) Lower extremity amputation, 4.9 per 1,000.

"(D) Perinatal mortality, 2 percent.

"(E) Major congenital malformations, 4 percent.

"(42) Confine annual incidence of diagnosed AIDS cases to no more than 1,000 cases.

"(43) Confine the prevalence of HIV infection to no more than 100 per 100,000.

"(44) Reduce gonorrhea to an incidence of no more than 225 cases per 100,000.

"(45) Reduce chlamydia trachomatis infections, as measured by a decrease in the inci-

dence of nongonococcal urethritis to no more than 170 cases per 100,000.

"(46) Reduce primary and secondary syphilis to an incidence of no more than 10 cases per 100,000.

"(47) Reduce the incidence of pelvic inflammatory disease, as measured by a reduction in hospitalization for pelvic inflammatory disease to no more than 250 per 100,000 women aged 15 through 44.

"(48) Reduce viral hepatitis B infection to no more than 40 per 100,000 cases.

"(49) Reduce indigenous cases of vaccine-preventable diseases as follows:

"(A) Diphtheria among individuals aged 25 and younger, 0.

"(B) Tetanus among individuals aged 25 and younger, 0.

"(C) Polio (wild-type virus), 0.

"(D) Measles, 0.

"(E) Rubella, 0.

"(F) Congenital Rubella Syndrome, 0.

"(G) Mumps, 500.

"(H) Pertussis, 1,000.

"(50) Reduce epidemic-related pneumonia and influenza deaths among individuals aged 65 and older to no more than 7.3 per 100,000.

"(51) Reduce the number of new carriers of viral hepatitis B among Alaska Natives to no more than 1 case.

"(52) Reduce tuberculosis to an incidence of no more than 5 cases per 100,000.

"(53) Reduce bacterial meningitis to no more than 8 cases per 100,000.

"(54) Reduce infectious diarrhea by at least 25 percent among children.

"(55) Reduce acute middle ear infections among children aged 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

"(56) Reduce cigarette smoking to a prevalence of no more than 20 percent.

"(57) Reduce smokeless tobacco use by youth to a prevalence of no more than 10 percent.

"(58) Increase to at least 65 percent the proportion of parents and caregivers who use feeding practices that prevent baby bottle tooth decay.

"(59) Increase to at least 75 percent the proportion of mothers who breast feed their babies in the early postpartum period, and to at least 50 percent the proportion who continue breast feeding until their babies are 5 to 6 months old.

"(60) Increase to at least 90 percent the proportion of pregnant women who receive prenatal care in the first trimester of pregnancy.

"(61) Increase to at least 70 percent the proportion of individuals who have received, as a minimum within the appropriate interval, all of the screening and immunization services and at least one of the counseling services appropriate for their age and gender as recommended by the United States Preventive Services Task Force.

"(c) It is the intent of the Congress that the Nation increase the proportion of all degrees in the health professions and allied and associated health profession fields awarded to Indians to 0.6 percent.

"(d) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the progress made in each area of the Service toward meeting each of the objectives described in subsection (b).".

(c) DEFINITIONS.—Section 4 of the Act (25 U.S.C. 1603) is amended by adding at the end the following new subsections:

"(m) 'Service area' means the geographical area served by each area office.

"(n) 'Health profession' means family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, and allied health professions.

"(o) 'Substance abuse' includes inhalant abuse.

"(p) 'FAE' means fetal alcohol effect.

"(q) 'FAS' means fetal alcohol syndrome.".

## TITLE I—INDIAN HEALTH PROFESSIONALS

**SEC. 101. PURPOSE.**

Section 101 of the Act (25 U.S.C. 1611) is amended to read as follows:

"PURPOSE

"SEC. 101. The purpose of this title is to increase the number of Indians entering the health professions and to assure an adequate supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health care to Indian people.".

**SEC. 102. HEALTH PROFESSIONS.**

(a) RECRUITMENT PROGRAM.—Section 102(a) of the Act (25 U.S.C. 1612(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

"(A) to enroll in courses of study in such health professions; or

"(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;";

(2) in paragraph (2)—

(A) by striking out "school" both places it appears and inserting in lieu thereof the following: "course of study"; and

(B) by striking out "clause (1)(A)" and inserting in lieu thereof the following: "paragraph (1)"; and

(3) in paragraph (3)—

(A) by striking out "Indians," and inserting in lieu thereof "Indians in,";

(B) by inserting a comma before "courses";

(C) by striking out ", in any school"; and

(D) by striking out "clause (1)(A)" and inserting in lieu thereof the following: "paragraph (1)".

(b) PREPARATORY SCHOLARSHIP PROGRAM.—Section 103 of the Act (25 U.S.C. 1613) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) have demonstrated the capability to successfully complete courses of study in the health professions.";

(2) in subsection (b)(1), by inserting before the period at the end the following: "on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary)";

(3) by amending subsection (b)(2) to read as follows:

"(2) Pregraduate education of any grantee leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the Secretary).";

(4) in subsection (c), by striking out "full time"; and

(5) by amending subsection (e) to read as follows:

"(e) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.".

(c) HEALTH PROFESSIONS SCHOLARSHIPS.—Section 104 of the Act (25 U.S.C. 1613a) is amended—

(1) in subsection (a)—

(A) by striking out "Indian communities" and inserting in lieu thereof the following: "Indians, Indian tribes, tribal organizations, and urban Indian organizations";

(B) by striking out "full time" and inserting in lieu thereof the following: "full or part time"; and

(C) by striking out "of medicine" and all that follows through "social work" and inserting in lieu thereof the following: "and pursuing courses of study in the health professions";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "full time" and inserting in lieu thereof "full or part time"; and

(ii) by striking out "health profession school" and inserting in lieu thereof "course of study";

(B) in paragraph (3)—

(i) by striking "(3)" and inserting "(3)(A)";

(ii) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(iii) by inserting at the end the following new subparagraphs:

"(B) A recipient of an Indian Health Scholarship may, at the election of the recipient, meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) by service in a program specified in subparagraph (A) that—

"(i) is located on the reservation of the tribe in which the recipient is enrolled; or

"(ii) serves the tribe in which the recipient is enrolled.

"(C) Subject to subparagraph (B), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section."; and

(C) by adding at the end the following new paragraph:

"(4) In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

"(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

"(B) the period of obligated service specified in section 338A(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 254m(f)(1)(B)(iv)) shall be equal to the greater of—

"(i) the part-time equivalent of one year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

"(ii) two years; and

"(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.";

(3) by amending subsection (c) to read as follows:

"(c) The Secretary shall, acting through the Service, establish a Placement Office to develop and implement a national policy for the placement, to available vacancies within the Service, of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) without regard to any competitive personnel system, agency personnel limitation, or Indian preference policy."; and

(4) by striking out subsection (d).

(d) EFFECTIVE DATE.—The amendments made by subsection (c)(1)(C) and subsection (c)(2)(B) shall apply with respect to scholarships granted under section 104 of the Indian Health Care Improvement Act after the date of the enactment of this Act.

(e) EXTERN PROGRAM.—Section 105 of the Act (25 U.S.C. 1614) is amended—

(1) in subsection (a), by striking out "section 757 of the Public Health Service Act" and inserting in lieu thereof "section 104"; and

(2) in subsection (b), by striking out "school of medicine" and all that follows through "health professions" and inserting in lieu thereof "course of study in the health professions".

**SEC. 103. BREACH OF CONTRACT PROVISIONS RELATING TO INDIAN HEALTH SCHOLARSHIPS.**

Section 104(b) of the Act (25 U.S.C. 1613a(b)) (as amended by section 102(c) of this Act) is amended by adding at the end the following new paragraph:

"(5)(A) An individual who has, on or after the date of the enactment of this paragraph, entered into a written contract with the Secretary under this section and who—

"(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(ii) is dismissed from such educational institution for disciplinary reasons,

"(iii) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

"(iv) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

"(B) If for any reason not specified in subparagraph (A) an individual breaches his written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.".

**SEC. 104. NURSING.**

(a) CONTINUING EDUCATION ALLOWANCES.—Section 106(a) of the Act (25 U.S.C. 1615(a)) is amended by inserting "nurses," after "dentists,".

(b) QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.—Section 112 of the Act (25 U.S.C. 1616e) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) The Secretary shall provide one of the grants authorized under subsection (a) to establish and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Nursing Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 114(b) and the Quentin N. Burdick American Indians Into Psychology Program established under section 217(b).".

(c) TRAINING FOR NURSE MIDWIVES, NURSE ANESTHETISTS, AND NURSE PRACTITIONERS.—Section 112(g) of the Act (25 U.S.C. 1616e(g)) (as redesignated by subsection (b)(1) of this section) is amended to read as follows:

"(g) Beginning with fiscal year 1993, of the amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not less than $1,000,000 shall be used to provide grants under subsection (a) for the training of nurse midwives, nurse anesthetists, and nurse practitioners.".

(d) RETENTION BONUS FOR NURSES.—Section 117 (25 U.S.C. 1616j) of the Act is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by adding after subsection (a) the following new subsection (b):

"(b) Beginning with fiscal year 1993, not less than 25 percent of the retention bonuses awarded each year under subsection (a) shall be awarded to nurses."; and

(3) by amending subsection (f) (as amended by paragraph (1)) to read as follows:

"(f) The Secretary may pay a retention bonus to any physician or nurse employed by an organization providing health care services to Indians pursuant to a contract under the Indian Self-Determination Act if such physician or nurse is serving in a position which the Secretary determines is—

"(1) a position for which recruitment or retention is difficult; and

"(2) necessary for providing health care services to Indians.".

(e) RESIDENCY PROGRAM.—Title I of the Act is amended by adding at the end the following new section:

"NURSING RESIDENCY PROGRAM

"SEC. 118. (a) The Secretary, acting through the Service, shall establish a program to enable licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 108(a)(2)(A)), and have done so for a period of not less than one year, to pursue advanced training.

"(b) Such program shall include a combination of education and work study in an Indian health program (as defined in section 108(a)(2)(A)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse).

"(c) An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least three times the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.".

(f) GRANTS FOR THE PROVISION OF PRIMARY CARE SERVICES ON OR NEAR INDIAN COUNTRY.—Title I of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended by adding immediately after section 112 the following new section:

"NURSING SCHOOL CLINICS

"SEC. 112A. (a) GRANTS.—In addition to the authority of the Secretary under section 112(a)(1), the Secretary, acting through the Service, is authorized to provide grants to public or private schools of nursing for the purpose of establishing, developing, operating, and administering clinics to address the health care needs of Indians, and to provide primary health care services to Indians who reside on or within 50 miles of Indian country, as defined in section 1151 of title 18, United States Code.

"(b) PURPOSES.—Grants provided under subsection (a) may be used to—

"(1) establish clinics, to be run and staffed by the faculty and students of a grantee school, to provide primary care services in areas in or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code);

"(2) provide clinical training, program development, faculty enhancement, and student scholarships in a manner that would benefit such clinics; and

"(3) carry out any other activities determined appropriate by the Secretary.

"(c) AMOUNT AND CONDITIONS.—The Secretary may award grants under this section in such amounts and subject to such conditions as the Secretary deems appropriate.

"(d) DESIGN.—The clinics established under this section shall be designed to provide nursing students with a structured clinical experience that is similar in nature to that provided by residency training programs for physicians.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

"(f) AUTHORIZATION TO USE AMOUNTS.—Out of amounts appropriated to carry out this title for each of the fiscal years 1993 through 2000 not more than $5,000,000 may be used to carry out this section.".

**SEC. 105. MAINTENANCE OF COMMUNITY HEALTH REPRESENTATIVE PROGRAM.**

Section 107(b) of the Act (25 U.S.C. 1616(b)) is amended—

(1) in paragraph (2), in the material preceding subparagraph (A), by inserting "and maintain" after "develop";

(2) in paragraph (2)(B), by adding at the end the following: "with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty,";

(3) in paragraphs (3) and (5), by striking out "develop" each place it appears and inserting in lieu thereof "maintain"; and

(4) in paragraph (4), by striking out "develop and".

**SEC. 106. CHANGES TO INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.**

(a) ELIGIBILITY REQUIREMENTS.—Section 108 of the Act (25 U.S.C. 1616a(b)) is amended—

(1) in subsection (a)(1), by striking out "physicians," and all that follows through "professionals" and inserting in lieu thereof "health professionals"; and

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by amending clause (i) to read as follows:

"(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or"; and

(ii) in clause (ii), by striking out "medicine" and all that follows through "health profession" and inserting in lieu thereof the following: "a health profession";

(B) in paragraph (1)(B)—

(i) by inserting "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii);

(ii) in clause (i), by striking out "medicine, osteopathy, dentistry, or other health profession" and inserting in lieu thereof the following: "a health profession"; and

(iii) in clause (ii) (as redesignated by clause (i) of this subparagraph), by striking out "medicine, osteopathy, dentistry, or other health profession" and inserting in lieu thereof the following: "a health profession"; and

(C) in paragraph (2), by inserting "and" at the end of subparagraph (D), by striking out paragraphs (3) and (4), and by inserting after paragraph (2) the following:

"(3) submit to the Secretary an application for a contract described in subsection (f).".

(b) PRIORITY.—Section 108(d) of the Act (25 U.S.C. 1616a(d)) is amended—

(1) in paragraph (1), by striking out "The" and inserting "Consistent with paragraph (3), the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), of the total amounts appropriated for each of the fiscal years 1993, 1994, and 1995 for loan repayment contracts under this section, the Secretary shall provide that—

"(i) not less than 25 percent be provided to applicants who are nurses, nurse practitioners, or nurse midwives; and

"(ii) not less than 10 percent be provided to applicants who are mental health professionals (other than applicants described in clause (i)).

"(B) The requirements specified in clause (i) or clause (ii) of subparagraph (A) shall not apply if the Secretary does not receive the number of applications from the individuals described in clause (i) or clause (ii), respectively, necessary to meet such requirements.".

(c) BECOMING A PARTICIPANT.—Paragraph (1) of section 108(e) (25 U.S.C. 1616a(e)) is amended to read as follows:

"(1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f).".

(d) EXTENSION OF OBLIGATED SERVICE.—Paragraph (2)(A) of section 108(e) (25 U.S.C. 1616a(e)) is amended by inserting before the semicolon the following: ", including extensions resulting in an aggregate period of obligated service in excess of 4 years".

(e) CLARIFICATION REGARDING UNDERGRADUATE LOANS.—Paragraph (1) of section 108(g) (25 U.S.C. 1616a(g)) is amended in the matter preceding subparagraph (A) by striking out "loans received by the individual for—" and inserting in lieu thereof "loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—".

(f) PAYMENT.—Section 108(g)(2)(A) (25 U.S.C. 1616a(g)(2)(A)) is amended to read as follows:

"(2)(A) For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $35,000 (or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

"(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

"(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

"(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.".

(g) TAX LIABILITY.—(1) Paragraph (3) of section 108(g) (25 U.S.C. 1616a(g)(3)) is amended to read as follows:

"(3) For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual, the Secretary—

"(A) in addition to such payments, may make payments to the individual in an amount not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and

"(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.".

(2) The amendment made by paragraph (1) shall apply only with respect to contracts under section 108 of the Indian Health Care Improvement Act entered into on or after the date of enactment of this Act.

(h) STAFFING NEEDS.—Section 108(k) (25 U.S.C. 1616a(k)) is amended to read as follows:

"(k) The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

"(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

"(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.".

(i) ANNUAL REPORT.—Subsection (n) of section 108 is amended to read as follows:

"(n) The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

"(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

"(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

"(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

"(4) the amount of loan payments made under this section, in total and by health profession;

"(5) the number of scholarship grants that are provided under section 104 with respect to each health profession;

"(6) the amount of scholarship grants provided under section 104, in total and by health profession;

"(7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the three fiscal years beginning after the date the report is filed; and

"(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.".

**SEC. 107. RECRUITMENT ACTIVITIES.**

Section 109 of the Act (25 U.S.C. 1616b) is amended—

(1) by amending the heading to read as follows:

"RECRUITMENT ACTIVITIES"; AND

(2) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.".

**SEC. 108. ADVANCED TRAINING AND RESEARCH.**

Section 111 of the Act (25 U.S.C. 1616d) is amended—

(1) in subsection (b), by amending the last sentence to read as follows: "In such event, with respect to individuals entering the program after the date of the enactment of the Indian Health Amendments of 1992, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection."; and

(2) by striking out subsection (d).

**SEC. 109. INMED PROGRAM.**

Section 114(b) of the Act (25 U.S.C. 1616g(b)) is amended—

(1) by inserting after "North Dakota," the following: "to be known as the 'Quentin N. Burdick Indian Health Programs',"; and

(2) by adding at the end the following: "Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 217(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 112(e).".

**SEC. 110. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.**

Title I of the Act is amended by inserting after section 108 the following new section:

"SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND

"SEC. 108A. (a) There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated to the Fund under subsection (b). Amounts appropriated for the Fund shall remain available until expended.

"(b) For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

"(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to—

"(A) the liability of individuals under subparagraph (A) or (B) of section 104(b)(5) for the breach of contracts entered into under section 104; and

"(B) the liability of individuals under section 108(l) for the breach of contracts entered into under section 108; and

"(2) the aggregate amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

"(c)(1) Amounts in the Fund and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make payments to an Indian tribe or tribal organization administering a health care program pursuant to a contract entered into under the Indian Self-Determination Act—

"(A) to which a scholarship recipient under section 104 or a loan repayment program participant under section 108 has been assigned to meet the obligated service requirements pursuant to sections; and

"(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 104 or section 108.

"(2) An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ, directly or by contract, health professionals to provide health care services.

"(d)(1) The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.".

**SEC. 111. COMMUNITY HEALTH AIDE PROGRAM.**

Title I of the Act (as amended by section 104 of this Act) is amended by adding at the end the following new section:

"COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA

"SEC. 119. (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13; popularly known as the Snyder Act), the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

"(1) provides for the training of Alaska Natives as health aides or community health practitioners;

"(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

"(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

"(b) The Secretary, acting through the Community Health Aide Program of the Service, shall—

"(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

"(2) in order to provide such training, develop a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

"(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

"(C) promotes the achievement of the health status objectives specified in section 3(b);

"(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

"(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

"(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

"(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.".

**SEC. 112. MATCHING GRANTS TO TRIBES.**

Title I of the Act (as amended by section 111 of this Act) is amended by adding at the end the following new section:

"MATCHING GRANTS TO TRIBES FOR SCHOLARSHIP PROGRAMS

"SEC. 120. (a)(1) The Secretary shall make grants to Indian tribes and tribal organizations for the purpose of assisting such tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

"(2) Amounts available for grants under paragraph (1) for any fiscal year shall not exceed 5 percent of amounts available for such fiscal year for Indian Health Scholarships under section 104.

"(3) An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as the Secretary determines are necessary to carry out this section.

"(b)(1) An Indian tribe or tribal organization receiving a grant under subsection (a) shall agree to provide scholarships to Indians pursuing education in the health professions in accordance with the requirements of this section.

"(2) With respect to the costs of providing any scholarship pursuant to paragraph (1)—

"(A) 80 percent of the costs of the scholarship shall be paid from the grant made under subsection (a) to the Indian tribe or tribal organization; and

"(B) 20 percent of such costs shall be paid from non-Federal contributions by the Indian tribe or tribal organization through which the scholarship is provided.

"(3) In determining the amount of non-Federal contributions that have been provided for purposes of subparagraph (B) of paragraph (2), any amounts provided by the Federal Government to the Indian tribe or tribal organization involved or to any other entity shall not be included.

"(4) Non-Federal contributions required by subparagraph (B) of paragraph (2) may be provided directly by the Indian tribe or tribal organization involved or through donations from public and private entities.

"(c) An Indian tribe or tribal organization shall provide scholarships under subsection (b) only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in section 104(a).

"(d) In providing scholarships under subsection (b), the Secretary and the Indian tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall—

"(1) obligate such recipient to provide service in an Indian health program (as defined in section 108(a)(2)(A)), in the same service area where the Indian tribe or tribal organization providing the scholarship is located, for—

"(A) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

"(B) such greater period of time as the recipient and the Indian tribe or tribal organization may agree;

"(2) provide that the amount of such scholarship—

"(A) may be expended only for—

"(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

"(ii) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled; and

"(B) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in subparagraph (A);

"(3) require the recipient of such scholarship to maintain an acceptable level of academic standing (as determined by the educational institution in accordance with regulations issued by the Secretary); and

"(4) require the recipient of such scholarship to meet the educational and licensure requirements necessary to be a physician, certified nurse practitioner, certified nurse midwife, or physician assistant.

"(e)(1) An individual who has entered into a written contract with the Secretary and an Indian tribe or tribal organization under subsection (d) and who—

"(A) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(B) is dismissed from such educational institution for disciplinary reasons,

"(C) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

"(D) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the Federal share of the amount which has been paid to him, or on his behalf, under the contract.

"(2) If for any reason not specified in paragraph (1), an individual breaches his written contract by failing either to begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount de-

termined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.

"(3) The Secretary may carry out this subsection on the basis of information submitted by the tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

"(f) The recipient of a scholarship under subsection (b) shall agree, in providing health care pursuant to the requirements of subsection (d)(1)—

"(1) not to discriminate against an individual seeking such care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the program established in title XIX of such Act; and

"(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

"(g) The Secretary may not make any payments under subsection (a) to an Indian tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Indian tribe or tribal organization has complied with requirements of this section.".

**SEC. 113. TRIBAL HEALTH PROGRAM ADMINISTRATION.**

Title I of the Act (as amended by section 112 of this Act) is amended by adding at the end the following new section:

"TRIBAL HEALTH PROGRAM ADMINISTRATION

"SEC. 121. The Secretary shall, by contract or otherwise, provide training for individuals in the administration and planning of tribal health programs.".

**SEC. 114. TRIBALLY CONTROLLED VOCATIONAL INSTITUTIONS.**

(a) NURSING PROGRAM GRANTS.—Section 112(a)(2) of the Act (25 U.S.C. 1616e(a)(2)) is amended by inserting before the comma the following: "and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2))".

(b) TRIBAL CULTURE AND HISTORY PROGRAMS.—Section 113(b)(1) of the Act (25 U.S.C. 1616f(b)(1) is amended by inserting before the comma "and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2))".

**SEC. 115. CONTINUING EDUCATION ALLOWANCES.**

Section 106(b) of the Act (25 U.S.C. 1615(b)) is amended to read as follows:

"(b) Of amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not more than $1,000,000 may be used to establish postdoctoral training programs for health professionals.".

**SEC. 116. UNIVERSITY OF SOUTH DAKOTA MODEL HEALTH PROGRAM.**

Title I of the Act (as amended by section 113 of this Act) is amended by adding at the end the following new section:

"UNIVERSITY OF SOUTH DAKOTA PILOT PROGRAM

"SEC. 122. (a) The Secretary may make a grant to the School of Medicine of the University of South Dakota (hereafter in this section referred to as 'USDSM') to establish a pilot program on an Indian reservation at one or more service units in South Dakota to address the chronic manpower shortage in the Aberdeen Area of the Service.

"(b) The purposes of the program established pursuant to a grant provided under subsection (a) are—

"(1) to provide direct clinical and practical experience at a service unit to medical students and residents from USDSM and other medical schools;

"(2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and

"(3) to provide academic and scholarly opportunities for physicians, physician assistants, nurse practitioners, nurses, and other allied health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

"(c) The pilot program established pursuant to a grant provided under subsection (a) shall—

"(1) incorporate a program advisory board composed of representatives from the tribes and communities in the area which will be served by the program; and

"(2) shall be designated as an extension of the USDSM campus and program participants shall be under the direct supervision and instruction of qualified medical staff serving at the service unit who shall be members of the USDSM faculty.

"(d) The USDSM shall coordinate the program established pursuant to a grant provided under subsection (a) with other medical schools in the region, nursing schools, tribal community colleges, and other health professional schools.

"(e) The USDSM, in cooperation with the Service, shall develop additional professional opportunities for program participants on Indian reservations in order to improve the recruitment and retention of qualified health professionals in the Aberdeen Area of the Service.".

**SEC. 117. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION.—Title I of the Act (as amended by section 116 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 123. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title I of the Act is amended—

(1) in section 102, by striking out subsection (c);

(2) in section 105, by striking out subsection (d);

(3) in section 108, by striking out subsection (o);

(4) in section 110, by striking out subsection (c);

(5) in section 113, by striking out subsection (c);

(6) in section 114, by striking out subsection (e);

(7) in section 115, by striking out subsection (f); and

(8) in section 116, by striking out subsection (e).

## TITLE II—HEALTH SERVICES

**SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.**

(a) IN GENERAL.—Section 201 of the Act (25 U.S.C. 1621) is amended—

(1) in subsection (a)—

(A) in the material preceding paragraph (1), by striking out "subsection (h)" and inserting in lieu thereof "this section";

(B) by amending paragraph (1) to read as follows:

"(1) eliminating the deficiencies in health status and resources of all Indian tribes,"; and

(C) in paragraph (4), in the material preceding subparagraph (A)—

(i) by inserting after "responsibilities" the following: ", either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act,"; and

(ii) by striking out "resources deficiency" and inserting in lieu thereof the following: "status and resource deficiencies";

(2) in subsection (b)—

(A) in paragraph (1), by striking out "subsection (h)" and inserting in lieu thereof "this section";

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2)(A) (as redesignated by subparagraph (B))—

(i) by striking out "subsection (h)" and inserting in lieu thereof "this section";

(ii) in the first sentence, by striking out "but such allocation" through "met";

(iii) in the second sentence—

(I) by striking out "(in accordance with paragraph (2))"; and

(II) by striking out "raise the deficiency level" and inserting in lieu thereof the following: "reduce the health status and resource deficiency"; and

(D) in paragraph (2)(B) (as redesignated by subparagraph (B)), by inserting after "consultation with" the following: ", and with the active participation of,";

(3) in subsection (c)—

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(B) by amending paragraph (1) (as redesignated by subparagraph (A) above) to read as follows:

"(1) The term 'health status and resource deficiency' means the extent to which—

"(A) the health status objectives set forth in section 3(b) are not being achieved; and

"(B) the Indian tribe does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances."; and

(C) in paragraph (3) (as redesignated by subparagraph (A) above)—

(i) by striking out "Under regulations, the" and inserting in lieu thereof "The"; and

(ii) by striking out "health resources deficiency level" and inserting in lieu thereof "extent of the health status and resource deficiency";

(4) in subsection (d)(1), by striking out "subsection (h)" and inserting in lieu thereof "this section";

(5) in subsection (e)—

(A) in the material preceding paragraph (1)—

(i) by striking out "60 days" and inserting in lieu thereof "3 years";

(ii) by striking out "Indian Health Care Amendments of 1988" and inserting in lieu thereof "Indian Health Amendments of 1992"; and

(iii) by striking out "health services priority system" and inserting in lieu thereof "health status and resource deficiency";

(B) in paragraph (1), by striking out "health resources deficiencies" and inserting

in lieu thereof "health status and resource deficiencies";

(C) in paragraph (2), by striking out "the level of health resources deficiency for" and inserting in lieu thereof the following: "the extent of the health status and resource deficiency of";

(D) in paragraph (3), by striking "raise all" and all that follows through the semicolon and insert in lieu thereof the following: "eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and"; and

(E) by striking out paragraphs (4) and (5) and redesignating paragraph (6) as paragraph (4); and

(6) in subsection (f), by striking out "(f)(1)" and all that follows through the paragraph designation for paragraph (2) and inserting in lieu thereof "(f)".

(b) EFFECTIVE DATE.—Except with respect to the amendments made by subsection (a)(5), the amendments made by subsection (a) shall take effect three years after the date of the enactment of this Act. The amendments made by subsection (a)(5) shall take effect upon the date of the enactment of this Act.

(c) TECHNICAL AMENDMENT.—The heading for section 201 of the Act (25 U.S.C. 1621) is amended to read as follows:

"INDIAN HEALTH CARE IMPROVEMENT FUND".

**SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.**

(a) IN GENERAL.—Section 202 of the Act (25 U.S.C. 1621a) is amended—

(1) in subsection (a)(1)(B), by striking out "under subsection (e)" and inserting in lieu thereof "to the Fund under this section";

(2) in subsection (b)(2), by striking out "shall establish at not less than $10,000 or not more than $20,000;" and inserting in lieu thereof the following: "shall establish at—

"(A) for 1993, not less than $15,000 or not more than $25,000; and

"(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;"; and

(3) in subsection (c), by striking out "Funds appropriated under subsection (e)" and inserting in lieu thereof "Amounts appropriated to the Fund under this section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall take effect January 1, 1993.

**SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION.**

Section 203 of the Act (25 U.S.C. 1621b) is amended—

(1) in subsection (a), by inserting before the period at the end the following: "so as to achieve the health status objectives set forth in section 3(b)";

(2) in subsection (b), in the material preceding paragraph (1), by striking out "section 201(f)" and inserting in lieu thereof "section 801"; and

(3) by striking out subsection (c).

**SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.**

Section 204 of the Act (25 U.S.C. 1621c) is amended—

(1) by amending subsection (c) to read as follows:

"(c)(1) The Secretary shall continue to maintain through fiscal year 2000 each model diabetes project in existence on the date of the enactment of the Indian Health Amendments of 1992 and located—

"(A) at the Claremore Indian Hospital in Oklahoma;

"(B) at the Fort Totten Health Center in North Dakota;

"(C) at the Sacaton Indian Hospital in Arizona;

"(D) at the Winnebago Indian Hospital in Nebraska;

"(E) at the Albuquerque Indian Hospital in New Mexico;

"(F) at the Perry, Princeton, and Old Town Health Centers in Maine;

"(G) at the Bellingham Health Center in Washington;

"(H) at the Fort Berthold Reservation;

"(I) at the Navajo Reservation;

"(J) at the Papago Reservation;

"(K) at the Zuni Reservation; or

"(L) in the States of Alaska, California, Minnesota, Montana, Oregon, or Utah.

"(2) The Secretary may establish new model diabetes projects under this section taking into consideration applications received under this section from all service areas, except that the Secretary may not establish a greater number of such projects in one service area than in any other service area until there is an equal number of such projects established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary)."; and

(2) in subsection (d)—

(A) in paragraph (2), by striking out "and" after the semicolon;

(B) in paragraph (3), by striking out the period and inserting in lieu thereof the following: "; and"; and

(C) by adding at the end the following new paragraph:

"(4) evaluate the effectiveness of services provided through model diabetes projects established under this section.".

**SEC. 205. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.**

Section 209 of the Act (25 U.S.C. 1621h) is amended—

(1) in subsection (j) (as redesignated by section 902(3)(B) of this Act), by striking out "submit to the Congress an annual report" and inserting in lieu thereof the following: "submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report"; and

(2) by adding at the end the following new subsections:

"(l) LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.—Any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a contract pursuant to the Indian Self-Determination Act shall—

"(1) in the case of a person employed as a psychologist, be licensed as a clinical psychologist or working under the direct supervision of a licensed clinical psychologist;

"(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

"(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

"(m) INTERMEDIATE ADOLESCENT MENTAL HEALTH SERVICES.—(1) The Secretary, acting through the Service, may make grants to Indian tribes and tribal organizations to provide intermediate mental health services to Indian children and adolescents, including—

"(A) inpatient and outpatient services;

"(B) emergency care;

"(C) suicide prevention and crisis intervention; and

"(D) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

"(2) Funds provided under this subsection may be used—

"(A) to construct or renovate an existing health facility to provide intermediate mental health services;

"(B) to hire mental health professionals;

"(C) to staff, operate, and maintain an intermediate mental health facility, group home, or youth shelter where intermediate mental health services are being provided; and

"(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units.

"(3) Funds provided under this subsection may not be used for the purposes described in section 216(b)(1).

"(4) An Indian tribe or tribal organization receiving a grant under this subsection shall ensure that intermediate adolescent mental health services are coordinated with other tribal, Service, and Bureau of Indian Affairs mental health, alcohol and substance abuse, and social services programs on the reservation of such tribe or tribal organization.

"(5) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this subsection.

"(6) There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

**SEC. 206. NEW STUDIES AND DEMONSTRATION PROGRAM.**

(a) HOSPICE CARE.—Title II of the Act is amended by inserting after section 204 the following:

"HOSPICE CARE FEASIBILITY STUDY

"SEC. 205. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes, tribal organizations, Indian Health Service personnel, and hospice providers, shall conduct a study—

"(1) to assess the feasibility and desirability of furnishing hospice care to terminally ill Indians; and

"(2) to determine the most efficient and effective means of furnishing such care.

"(b) Such study shall—

"(1) assess the impact of Indian culture and beliefs concerning death and dying on the provision of hospice care to Indians;

"(2) estimate the number of Indians for whom hospice care may be appropriate and determine the geographic distribution of such individuals;

"(3) determine the most appropriate means to facilitate the participation of Indian tribes and tribal organizations in providing hospice care;

"(4) identify and evaluate various means for providing hospice care, including—

"(A) the provision of such care by the personnel of a Service hospital pursuant to a hospice program established by the Secretary at such hospital; and

"(B) the provision of such care by a community-based hospice program under contract to the Service; and

"(5) identify and assess any difficulties in furnishing such care and the actions needed to resolve such difficulties.

"(c) Not later than the date which is 12 months after the date of the enactment of

this section, the Secretary shall transmit to the Congress a report containing—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.

"(d) For the purposes of this section—

"(1) the term 'terminally ill' means any Indian who has a medical prognosis (as certified by a physician) of a life expectancy of six months or less; and

"(2) the term 'hospice program' means any program which satisfies the requirements of section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)); and

"(3) the term 'hospice care' means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)).".

(b) MANAGED CARE.—Title II of the Act is amended by adding at the end the following new section:

"MANAGED CARE FEASIBILITY STUDY

"SEC. 210. (a) The Secretary, acting through the Service, shall conduct a study to assess the feasibility of allowing an Indian tribe to purchase, directly or through the Service, managed care coverage for all members of the tribe from—

"(1) a tribally owned and operated managed care plan; or

"(2) a State licensed managed care plan.

"(b) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.".

(c) CONTRACT CARE.—Title II of the Act (as amended by subsection (b) of this Act) is amended by adding at the end the following new section:

"CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM

"SEC. 211. (a) The Secretary shall establish a demonstration program to evaluate the use of a contract care intermediary to improve the accessibility of health services to California Indians.

"(b)(1) In establishing such program, the Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred, during the period of the demonstration program, in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 810 with respect to high-cost contract care cases.

"(2) Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the Board during such fiscal year.

"(3) No payment may be made for treatment provided under the demonstration program to the extent payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

"(c) There is hereby established an advisory board which shall advise the California Rural Indian Health Board in carrying out the demonstration pursuant to this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under such demonstration, at least one half of whom are not affiliated with the California Rural Indian Health Board.

"(d) The demonstration program described in this section shall begin on January 1, 1993, and shall terminate on September 30, 1997.

"(e) Not later than July 1, 1998, the California Rural Indian Health Board shall submit to the Secretary a report on the demonstration program carried out under this section, including a statement of its findings regarding the impact of using a contract care intermediary on—

"(1) access to needed health services;

"(2) waiting periods for receiving such services; and

"(3) the efficient management of high-cost contract care cases.

"(f) For the purposes of this section, the term 'high-cost contract care cases' means those cases in which the cost of the medical treatment provided to an individual—

"(1) would otherwise be eligible for reimbursement from the Catastrophic Health Emergency Fund established under section 202, except that the cost of such treatment does not meet the threshold cost requirement established pursuant to section 202(b)(2); and

"(2) exceeds $1,000.

"(g) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out the purposes of this section.".

**SEC. 207. COVERAGE OF SCREENING MAMMOGRAPHY.**

(a) IN GENERAL.—Title II of the Act (as amended by section 206(c) of this Act) is amended by adding at the end the following new section:

"COVERAGE OF SCREENING MAMMOGRAPHY

"SEC. 212. The Secretary, through the Service, shall provide for screening mammography (as defined in section 1861(jj) of the Social Security Act) for Indian and urban Indian women 35 years of age or older at a frequency, determined by the Secretary (in consultation with the Director of the National Cancer Institute), appropriate to such women, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.".

(b) CONFORMING AMENDMENT.—Section 201(a)(4)(B) of the Act (25 U.S.C. 1621(a)(4)(B)) is amended by striking the semicolon at the end and inserting the following: ", including screening mammography in accordance with section 212;".

**SEC. 208. PATIENT TRAVEL COSTS.**

Title II of the Act (as amended by section 207 of this Act) is amended by adding at the end the following new section:

"PATIENT TRAVEL COSTS

"SEC. 213. (a) The Secretary, acting through the Service, shall provide funds for the following patient travel costs associated with receiving health care services provided (either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act) under this Act—

"(1) emergency air transportation; and

"(2) nonemergency air transportation where ground transportation is infeasible.

"(b) There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

**SEC. 209. THIRD PARTY REIMBURSEMENT.**

(a) RECOVERY BY INDIAN TRIBE.—Section 206 of the Act (25 U.S.C. 1621e) is amended—

(1) by inserting ", an Indian tribe, or a tribal organization" after "United States" each place it appears;

(2) in subsection (a), by inserting ", an Indian tribe, or a tribal organization" after "Service";

(3) in subsection (a) and subsection (e)(1)(A), by inserting ", an Indian tribe, or a tribal organization" after "Secretary" each place it appears; and

(4) in subsection (b), by striking ", or any political subdivision of a State,".

(b) SPECIAL RULE WITH RESPECT TO SELF-INSURANCE PLAN.—Section 206 of the Act (25 U.S.C. 1621e) is amended—

(1) by striking "(a) The" and inserting the following: "(a) Except as provided in subsection (f), the"; and

(2) by adding at the end the following new subsection:

"(f) The United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization.".

**SEC. 210. EPIDEMIOLOGY CENTERS.**

Title II of the Act (as amended by section 208 of this Act) is amended by adding at the end the following new section:

"EPIDEMIOLOGY CENTERS

"SEC. 214. (a)(1) The Secretary shall establish an epidemiology center in each Service area to carry out the functions described in paragraph (3).

"(2) To assist such centers in carrying out such functions, the Secretary shall perform the following:

"(A) In consultation with the Centers for Disease Control and Indian tribes, develop sets of data (which to the extent practicable, shall be consistent with the uniform data sets used by the States with respect to the year 2000 health objectives) for uniformly defining health status for purposes of the objectives specified in section 3(b). Such sets shall consist of one or more categories of information. The Secretary shall develop formats for the uniform collecting and reporting of information on such categories.

"(B) Establish and maintain a system for monitoring the progress made toward meeting each of the health status objectives described in section 3(b).

"(3) In consultation with Indian tribes and urban Indian communities, each area epidemiology center established under this subsection shall, with respect to such area—

"(A) collect data relating to, and monitor progress made toward meeting, each of the health status objectives described in section 3(b) using the data sets and monitoring system developed by the Secretary pursuant to paragraph (2);

"(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

"(C) assist tribes and urban Indian communities in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

"(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

"(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

"(F) work cooperatively with tribal providers of health and social services in order to avoid duplication of existing services; and

"(G) provide technical assistance to Indian tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community.

"(4) Epidemiology centers established under this subsection shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(5) The director of the Centers for Disease Control shall provide technical assistance to the centers in carrying out the requirements of this subsection.

"(6) The Service shall assign one epidemiologist from each of its area offices to each area epidemiology center to provide such center with technical assistance necessary to carry out this subsection.

"(b)(1) The Secretary may make grants to Indian tribes, tribal organizations, and eligible intertribal consortia or Indian organizations to conduct epidemiological studies of Indian communities.

"(2) An intertribal consortia or Indian organization is eligible to receive a grant under this subsection if—

"(A) it is incorporated for the primary purpose of improving Indian health; and

"(B) it is representative of the tribes or urban Indian communities in which it is located.

"(3) An application for a grant under this subsection shall be submitted in such manner and at such time as the Secretary shall prescribe.

"(4) Applicants for grants under this subsection shall—

"(A) demonstrate the technical, administrative, and financial expertise necessary to carry out the functions described in paragraph (5);

"(B) consult and cooperate with providers of related health and social services in order to avoid duplication of existing services; and

"(C) demonstrate cooperation from Indian tribes or urban Indian organizations in the area to be served.

"(5) A grant awarded under paragraph (1) may be used to—

"(A) carry out the functions described in subsection (a)(3);

"(B) provide information to and consult with tribal leaders, urban Indian community leaders, and related health staff, on health care and health services management issues; and

"(C) provide, in collaboration with tribes and urban Indian communities, the Service with information regarding ways to improve the health status of Indian people.

"(6) There are authorized to be appropriated to carry out the purposes of this subsection not more than $12,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

**SEC. 211. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.**

Title II of the Act (as amended by section 210 of this Act) is amended by adding at the end the following new section:

"COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS

"SEC. 215. (a) The Secretary, acting through the Service and in consultation with the Secretary of the Interior, may award grants to Indian tribes to develop comprehensive school health education programs for children from preschool through grade 12 in schools located on Indian reservations.

"(b) Grants awarded under this section may be used to—

"(1) develop health education curricula;

"(2) train teachers in comprehensive school health education curricula;

"(3) integrate school-based, community-based, and other public and private health promotion efforts;

"(4) encourage healthy, tobacco-free school environments;

"(5) coordinate school-based health programs with existing services and programs available in the community;

"(6) develop school programs on nutrition education, personal health, and fitness;

"(7) develop mental health wellness programs;

"(8) develop chronic disease prevention programs;

"(9) develop substance abuse prevention programs;

"(10) develop accident prevention and safety education programs;

"(11) develop activities for the prevention and control of communicable diseases; and

"(12) develop community and environmental health education programs.

"(c) The Secretary shall provide technical assistance to Indian tribes in the development of health education plans, and the dissemination of health education materials and information on existing health programs and resources.

"(d) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this section.

"(e) Recipients of grants under this section shall submit to the Secretary an annual report on activities undertaken with funds provided under this section. Such reports shall include a statement of—

"(1) the number of preschools, elementary schools, and secondary schools served;

"(2) the number of students served;

"(3) any new curricula established with funds provided under this section;

"(4) the number of teachers trained in the health curricula; and

"(5) the involvement of parents, members of the community, and community health workers in programs established with funds provided under this section.

"(f)(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools operated by the Bureau of Indian Affairs.

"(2) Such program shall include—

"(A) school programs on nutrition education, personal health, and fitness;

"(B) mental health wellness programs;

"(C) chronic disease prevention programs;

"(D) substance abuse prevention programs;

"(E) accident prevention and safety education programs; and

"(F) activities for the prevention and control of communicable diseases.

"(3) The Secretary of the Interior shall—

"(A) provide training to teachers in comprehensive school health education curricula;

"(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

"(C) encourage healthy, tobacco-free school environments.

"(g) There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

**SEC. 212. INDIAN YOUTH GRANT PROGRAM.**

Title II of the Act (as amended by section 211 of this Act) is amended by adding at the end the following new section:

"INDIAN YOUTH GRANT PROGRAM

"SEC. 216. (a) The Secretary, acting through the Service, is authorized to make grants to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian preadolescent and adolescent youths.

"(b)(1) Funds made available under this section may be used to—

"(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional healers; and

"(B) develop and provide community training and education.

"(2) Funds made available under this section may not be used to provide services described in section 209(m).

"(c) The Secretary shall—

"(1) disseminate to Indian tribes information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

"(2) encourage the implementation of such models; and

"(3) at the request of an Indian tribe, provide technical assistance in the implementation of such models.

"(d) The Secretary shall establish criteria for the review and approval of applications under this section.

"(e) There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

**SEC. 213. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.**

Title II of the Act (as amended by section 212 of this Act) is amended by adding at the end the following new section:

"AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM

"SEC. 217. (a) The Secretary may provide grants to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field.

"(b) The Secretary shall provide one of the grants authorized under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Psychology Program'. Such program shall,to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 114(b), the Quentin N. Burdick American Indians Into Nursing Program authorized under section 112(e), and existing university research and communications networks.

"(c)(1) The Secretary shall issue regulations for the competitive awarding of the grants provided under this section.

"(2) Applicants for grants under this section shall agree to provide a program which, at a minimum—

"(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations that will be served by the program;

"(B) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program;

"(C) provides summer enrichment programs to expose Indian students to the varied fields of psychology through research, clinical, and experiential activities;

"(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

"(E) develops affiliation agreements with tribal community colleges,the Service, university affiliated programs, and other appropriate entities to enhance the education of Indian students;

"(F) to the maximum extent feasible, utilizes existing university tutoring, counseling and student support services; and

"(G) to the maximum extent feasible, employs qualified Indians in the program.

"(d) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate student who receives a stipend described in subsection (c)(2)(D) that is funded by a grant provided under this section. Such obligation shall be met by service—

"(1) in the Indian Health Service;

"(2) in a program conducted under a contract entered into under the Indian Self-Determination Act;

"(3) in a program assisted under title V of this Act; or

"(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.".

**SEC. 214. PREVENTION, CONTROL, AND ELIMINATION OF TUBERCULOSIS.**

Title II of the Act (as amended by section 213 of this Act) is amended by adding at the end the following new section:

"PREVENTION, CONTROL, AND ELIMINATION OF TUBERCULOSIS

"SEC. 218. (a) The Secretary, acting through the Service after consultation with the Centers for Disease Control, may make grants to Indian tribes and tribal organizations for—

"(1) projects for the prevention, control, and elimination of tuberculosis;

"(2) public information and education programs for the prevention, control, and elimination of tuberculosis; and

"(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of tuberculosis for health professionals, including allied health professionals.

"(b) The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains the assurances required by subsection (c) and such other agreements, assurances, and information as the Secretary may require.

"(c) To be eligible for a grant under subsection (a), an applicant must provide assurances satisfactory to the Secretary that—

"(1) the applicant will coordinate its activities for the prevention, control, and elimination of tuberculosis with activities of the Centers for Disease Control, and State and local health agencies; and

"(2) the applicant will submit to the Secretary an annual report on its activities for the prevention, control, and elimination of tuberculosis.

"(d) In carrying out this section, the Secretary—

"(1) shall establish criteria for the review and approval of applications for grants under subsection (a), including requirement of public health qualifications of applicants;

"(2) shall, subject to available appropriations, make at least one grant under subsection (a) within each area office;

"(3) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

"(4) shall prepare and submit a report to the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House and the Select Committee on Indian Affairs of the Senate not later than February 1, 1994, and biennially thereafter, on the use of funds under this section and on the progress made toward the prevention, control, and elimination of tuberculosis among Indian tribes and tribal organizations.

"(e) The Secretary may, at the request of a recipient of a grant under subsection (a), reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.".

**SEC. 215. CONTRACT HEALTH SERVICES.**

Title II of the Act (as amended by section 214 of this Act) is amended by adding at the end the following new sections:

"CONTRACT HEALTH SERVICES PAYMENT STUDY

"SEC. 219. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes and tribal organizations operating contract health care programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under self-governance compacts, Service personnel, private contract health services providers, the Indian Health Service Fiscal Intermediary, and other appropriate experts, shall conduct a study—

"(1) to assess and identify administrative barriers that hinder the timely payment for services delivered by private contract health services providers to individual Indians by the Service and the Indian Health Service Fiscal Intermediary;

"(2) to assess and identify the impact of such delayed payments upon the personal credit histories of individual Indians who have been treated by such providers; and

"(3) to determine the most efficient and effective means of improving the Service's contract health services payment system and ensuring the development of appropriate consumer protection policies to protect individual Indians who receive authorized services from private contract health services providers from billing and collection practices, including the development of materials and programs explaining patients' rights and responsibilities.

"(b) The study required by subsection (a) shall—

"(1) assess the impact of the existing contract health services regulations and policies upon the ability of the Service and the Indian Health Service Fiscal Intermediary to process, on a timely and efficient basis, the payment of bills submitted by private contract health services providers;

"(2) assess the financial and any other burdens imposed upon individual Indians and private contract health services providers by delayed payments;

"(3) survey the policies and practices of collection agencies used by contract health services providers to collect payments for services rendered to individual Indians;

"(4) identify appropriate changes in Federal policies, administrative procedures, and regulations, to eliminate the problems experienced by private contract health services providers and individual Indians as a result of delayed payments; and

"(5) compare the Service's payment processing requirements with private insurance claims processing requirements to evaluate the systemic differences or similarities employed by the Service and private insurers.

"(c) Not later than 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report that includes—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.

"PROMPT ACTION ON PAYMENT OF CLAIMS

"SEC. 220. (a) The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

"(b) If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

"(c) The Service shall pay a completed contract care service claim within 30 days after completion of the claim.

"DEMONSTRATION OF ELECTRONIC CLAIMS PROCESSING

"SEC. 221. (a) Not later than June 15, 1993, the Secretary shall develop and implement, directly or by contract, 2 projects to demonstrate in a pilot setting the use of claims processing technology to improve the accuracy and timeliness of the billing for, and payment of, contract health services.

"(b) The Secretary shall conduct one of the projects authorized in subsection (a) in the Service area served by the area office located in Phoenix, Arizona.

"LIABILITY FOR PAYMENT

"SEC. 222. (a) A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

"(b) The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services.".

**SEC. 216. OFFICE OF WOMEN'S INDIAN HEALTH CARE.**

Title II of the Act (as amended by section 215 of this Act) is amended by adding at the end the following new section:

"OFFICE OF INDIAN WOMEN'S HEALTH CARE

"SEC. 223. There is established within the Service an Office of Indian Women's Health

Care to oversee efforts of the Service to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.".

**SEC. 217. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION.—Title II of the Act (as amended by section 216 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 224. Except as provided in sections 209(m), 211, 213, 214(b)(5), 215, and 216, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title II of the Act is amended—

(1) in section 201(h), by striking out the first sentence and striking out "subsection" and inserting in lieu thereof "section";

(2) in section 202, by striking out subsection (e);

(3) in section 204(e), by striking out the first sentence and striking out "subsection (c)" and inserting in lieu thereof "this section"; and

(4) in section 209 (as amended by section 902(3)(B) of this Act)—

(A) by striking out subsections (c)(5), (d)(6), (f)(4), and (g)(5);

(B) in subsection (h)—

(i) by striking out paragraph (2) and by striking out "(1)";

(ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(iii) by striking out "subparagraph (A)" and inserting "paragraph (1)"; and

(iv) by striking out "subparagraph (B)" and inserting "paragraph (2)";

(C) in subsection (i), by striking out paragraph (2) and by striking out "(1)";

(D) in subsection (d)(3)(B), by striking out "this subsection" and inserting in lieu thereof "this section"; and

(E) in subsection (k)(6), by striking out the first sentence and in the second sentence by striking out "subsection" and inserting in lieu thereof "section".

## TITLE III—HEALTH FACILITIES

**SEC. 301. HEALTH FACILITIES CLOSURE AND PRIORITIES.**

Section 301 of the Act (25 U.S.C. 1631) is amended—

(1) in subsection (a)(2), by striking out "Hospitals" and inserting "Health Care Organizations";

(2) in subsection (b)(1)—

(A) in the material preceding subparagraph (A), by striking out "other" before "outpatient";

(B) by striking out "and" at the end of subparagraph (D);

(C) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and

(D) by adding at the end the following new subparagraphs:

"(F) the level of utilization of such hospital or facility by all eligible Indians; and

"(G) the distance between such hospital or facility and the nearest operating Service hospital.";

(3) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively;

(4) in subsection (c)(1) (as redesignated by paragraph (2) of this subsection), by amending the material preceding subparagraph (A) to read as follows:

"(c)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth—"; and

(5) by striking out paragraph (2) of subsection (c) (as redesignated by paragraph (2)) and redesignating paragraphs (3), (4), and (5) of such subsection as paragraphs (2), (3), and (4), respectively.

**SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.**

Section 302 of the Act (25 U.S.C. 1632) is amended—

(1) by amending subsection (e) to read as follows:

"(e)(1) The Secretary is authorized to provide financial assistance to Indian tribes and communities in an amount equal to the Federal share of the costs of operating, managing, and maintaining the facilities provided under the plan described in subsection (c).

"(2) For the purposes of paragraph (1), the term 'Federal share' means 80 percent of the costs described in paragraph (1).

"(3) With respect to Indian tribes with fewer than 1,000 enrolled members, the non-Federal portion of the costs of operating, managing, and maintaining such facilities may be provided, in part, through cash donations or in kind property, fairly evaluated.";

(2) in subsection (f)(1), by striking out "subsection (h)" and inserting in lieu thereof "this section"; and

(3) in subsection (g)—

(A) in paragraph (1), by striking out "The Secretary" through "report" and inserting in lieu thereof the following: "The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report"; and

(B) by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

**SEC. 303. AMBULATORY CARE FACILITIES GRANT PROGRAM.**

Section 306 of the Act (25 U.S.C. 1636) is amended to read as follows:

"GRANT PROGRAM FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES

"SEC. 306. (a)(1) The Secretary, acting through the Service, shall make grants to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided in subsection (c)(1)(C)). A grant made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

"(2) A grant under paragraph (1) may only be made to a tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to a tribe or tribal organization) pursuant to a contract entered into under the Indian Self-Determination Act.

"(b)(1) A grant provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

"(A) located apart from a hospital;

"(B) not funded under section 301 or section 307; and

"(C) which, upon completion of such construction, expansion, or modernization will—

"(i) have a total capacity appropriate to its projected service population;

"(ii) serve no less than 500 eligible Indians annually; and

"(iii) provide ambulatory care in a service area (specified in the contract entered into under the Indian Self-Determination Act) with a population of not less than 2,000 eligible Indians.

"(2) The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to a tribe or tribal organization applying for a grant under this section whose tribal government offices are located on an island.

"(c)(1) No grant may be made under this section unless an application for such a grant has been submitted to and approved by the Secretary. An application for a grant under this section shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to a grant received under this section—

"(A) adequate financial support will be available for the provision of services at such facility;

"(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

"(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

"(2) In awarding grants under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

"(A) a need for increased ambulatory care services; and

"(B) insufficient capacity to deliver such services.

"(d) If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, at any time after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing ambulatory care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States.".

**SEC. 304. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.**

(a) AWARDING OF GRANTS.—Section 307(c) of the Act (25 U.S.C. 1637(c)(3)) is amended—

(1) in paragraph (1)(A), by inserting "or program" immediately after "facility" each place it appears;

(2) in paragraph (3)(A)—

(A) by striking "The" and inserting "On or before September 30, 1995, the"; and

(B) by adding before the colon the following: "and for which a completed application has been received by the Secretary"; and

(3) by striking subparagraph (B) and inserting the following:

"(B) The Secretary may also enter into contracts or award grants under this section taking into consideration applications received under this section from all service areas. The Secretary may not award a greater number of such contracts or grants in one service area than in any other service area until there is an equal number of such contracts or grants awarded with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria specified in paragraph (1).".

(b) REPORTS.—Section 307(h) of the Act (25 U.S.C. 1637(h)) is amended to read as follows:

"(h)(1) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1997, an interim report on the findings and conclusions derived from the demonstration projects established under this section.

"(2) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1999, a final report on the findings and conclusions derived from the demonstration projects established under this section, together with legislative recommendations.".

**SEC. 305. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.**

Section 305 of the Act (25 U.S.C. 1634) is amended to read as follows:

"EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION

"SEC. 305. (a)(1) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act, including—

"(A) any plans or designs for such renovation or modernization; and

"(B) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended,

but only if the requirements of subsection (b) are met.

"(2) The Secretary shall maintain a separate priority list to address the needs of such facilities for personnel or equipment.

"(3) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, the priority list maintained pursuant to paragraph (2).

"(b) The requirements of this subsection are met with respect to any renovation or modernization if—

"(1) the tribe or tribal organization—

"(A) provides notice to the Secretary of its intent to renovate or modernize; and

"(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for personnel or equipment; and

"(2) the renovation or modernization—

"(A) is approved by the appropriate area director of the Service; and

"(B) is administered by the tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

"(c) If any Service facility which has been renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such facility at the time of the completion of such renovation or modernization.".

**SEC. 306. LAND TRANSFER.**

Title III of the Act is amended by adding at the end the following new section:

"LAND TRANSFER

"SEC. 308. The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.".

**SEC. 307. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION.—Title III of the Act (as amended by section 306 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 309. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title III of the Act is amended—

(1) in section 302, by striking out subsection (h); and

(2) in section 307, by striking out subsection (i).

**SEC. 308. BUY AMERICAN REQUIREMENT.**

Title III of the Act (as amended by section 307 of this Act) is amended by adding at the end the following new section:

"APPLICABILITY OF BUY AMERICAN REQUIREMENT

"SEC. 310. (a) The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to the authorization contained in section 309.

"(b) The Secretary shall submit to the Congress a report on the amount of procurements from foreign entities made in fiscal years 1993 and 1994 with funds provided pursuant to the authorization contained in section 309. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act was waived pursuant to the Trade Agreement Act of 1979 or any international agreement to which the United States is a party.

"(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 309, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

"(d) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).".

## TITLE IV—ACCESS TO HEALTH SERVICES

**SECTION 401. TREATMENT OF PAYMENTS TO INDIAN HEALTH SERVICE FACILITIES UNDER MEDICARE AND MEDICAID PROGRAMS.**

(a) MEDICARE PROGRAM.—Section 401 of the Act (42 U.S.C. 1395qq note) is amended to read as follows:

"TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM

"SEC. 401. (a) Any payments received by a hospital or skilled nursing facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act) for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.

"(b) Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.".

(b) MEDICAID PROGRAM.—(1) Section 402 of the Act is amended to read as follows:

"TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM

"SEC. 402. (a) Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives at least 80 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

"(b) Any payments received by such facility for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.".

(2) The increase (from 50 percent) in the percentage of the payments from the fund to be made to each service unit of the Service specified in the amendment made by paragraph (1) shall take effect beginning with payments made on January 1, 1993.

**SEC. 402. REPORT.**

Section 403 of the Act (25 U.S.C. 1671 note) is amended by striking out "The Secretary" and all that follows through "section 701" and inserting in lieu thereof the following: "The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801,".

**SEC. 403. APPLICATION ASSISTANCE.**

Section 404 of the Act (25 U.S.C. 1622) is amended—

(1) by amending subsection (b)(4) to read as follows:

"(4) develop and implement—

"(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for coverage of needy individuals; and

"(B) methods of improving the participation of Indians in receiving the benefits provided under titles XVIII and XIX of the Social Security Act."; and

(2) by amending subsection (c) to read as follows:

"(c) The Secretary, acting through the Service, may enter into an agreement with an Indian tribe, tribal organization, or urban Indian organization which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act and benefits under title XVIII of the Social Security Act at a Service

facility or a health care facility administered by such tribe or organization pursuant to a contract under the Indian Self-Determination Act.".

**SEC. 404. EXTENSION OF DEMONSTRATION PROGRAM.**

Section 405 of the Act (42 U.S.C. 1395qq note) is amended—

(1) in subsection (c)(2), by striking "1995" and inserting "1996"; and

(2) in subsection (e), by striking "1995" and inserting "1996".

**SEC. 405. AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES.**

Title IV of the Act is amended by adding at the end the following new section:

"AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES

"SEC. 406. With respect to an elderly or disabled Indian receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.".

**SEC. 406. AUTHORIZATION OF APPROPRIATIONS.**

Title IV of the Act is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 407. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

## TITLE V—HEALTH SERVICES FOR URBAN INDIANS

**SEC. 501. GRANT AUTHORITY.**

(a) IN GENERAL.—Section 502 of the Act (25 U.S.C. 1652) is amended—

(1) by striking "contracts with" and inserting the following: "contracts with, or make grants to,";

(2) by inserting after "enters into with" the following: ", or in any grant the Secretary makes to,"; and

(3) by amending the heading to read as follows:

"CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS".

(b) CONFORMING AMENDMENTS.—(1) Section 503 of the Act (25 U.S.C. 1653) is amended—

(A) in subsection (a), in the material preceding paragraph (1)—

(i) by inserting ", or make grants to," after "contracts with"; and

(ii) by inserting "or grant" after "such contract";

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting "or receive grants" after "enter into contracts"; and

(ii) in paragraph (5), by inserting "or to meet the requirements for receiving a grant" after "Secretary";

(C) in subsection (c)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(D) in subsection (d)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(E) in subsection (e)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(F) in subsection (f), by inserting "or receiving grants under subsection (a)" after "this section"; and

(G) by amending the heading to read as follows:

"CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES".

(2) Section 504 of the Act (25 U.S.C. 1654) is amended—

(A) by striking "SEC. 504." and all that follows through the end of subsection (a) and inserting the following:

"SEC. 504. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 503. The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.";

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting ", or grant made," after "contract entered into"; and

(ii) in paragraph (2), by striking "within one year" and all that follows through the period at the end and inserting the following: ", or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable.";

(C) in subsection (c), by inserting ", or grant made," after "entered into"; and

(D) by amending the heading to read as follows:

"CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS".

(3) Section 505 of the Act (25 U.S.C. 1655) is amended—

(A) in subsection (a), by inserting "compliance with grant requirements under this title and" before "compliance with,";

(B) in subsection (b)—

(i) by inserting "or received a grant" after "entered into a contract"; and

(ii) by inserting before the period at the end the following: "or the terms of such grant";

(C) in subsection (c)—

(i) by inserting "the requirements of a grant or complied with" after "complied with";

(ii) by inserting "or grant" after "such contract" each place it appears";

(iii) by inserting "or make a grant" after "enter into a contract"; and

(iv) by inserting "or grant" after "whose contract";

(D) in subsection (d), by inserting "or grant" after "a contract" each place it appears; and

(E) by amending the heading to read as follows:

"EVALUATIONS; RENEWALS".

(4) Section 506 of the Act (25 U.S.C. 1656) is amended—

(A) in subsection (b), by inserting "or grants" after "any contracts";

(B) in subsection (d), by inserting "or grant" after "contract" each place it appears;

(C) in subsection (e)—

(i) by inserting ", or grants to," after "Contracts with"; and

(ii) by inserting "or grants" after "such contracts"; and

(D) by amending the heading to read as follows:

"OTHER CONTRACT AND GRANT REQUIREMENTS".

(5) Section 507 of the Act (25 U.S.C. 1657) is amended—

(A) in subsection (a)—

(i) in the material preceding paragraph (1), by inserting ", or a grant received," after "entered into"; and

(ii) in paragraphs (1) and (2), by inserting "or grant" after "contract" each place it appears; and

(B) in subsections (b) and (c), by inserting "or grant" after "contract" each place it appears.

(6) Section 509 of the Act (25 U.S.C. 1659) (as amended by section 902(5)(A) of this Act) is amended by inserting "or grant recipients" after "contractors" each place it appears.

(7) Section 510(a) of the Act (25 U.S.C. 1660(a)) (as amended by section 902(5)(B) of this Act) is amended by inserting before the period at the end the following: "and for providing central oversight of the programs and services authorized under this title".

**SEC. 502. ALCOHOL AND SUBSTANCE ABUSE.**

Title V of the Act is amended by inserting after section 510 (as redesignated by section 902(5)(B) of this Act) the following new section:

"GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE RELATED SERVICES

"SEC. 511. (a) GRANTS.—The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this title or under section 201.

"(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

"(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

"(1) size of the urban Indian population;

"(2) accessibility to, and utilization of, other health resources available to such population;

"(3) duplication of existing Service or other Federal grants or contracts;

"(4) capability of the organization to adequately perform the activities required under the grant;

"(5) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

"(6) identification of need for services.

"The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

"(d) TREATMENT OF FUNDS RECEIVED BY URBAN INDIAN ORGANIZATIONS.—Any funds received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).".

**SEC. 503. TREATMENT OF DEMONSTRATION PROJECTS.**

Title V of the Act (as amended by section 502 of this Act) is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN DEMONSTRATION PROJECTS

"SEC. 512. (a) Notwithstanding any other provision of law, the Oklahoma City Clinic demonstration project and the Tulsa Clinic demonstration project shall be treated as service units in the allocation of resources and coordination of care and shall not be subject to the provisions of the Indian Self-Determination Act for the term of such projects. The Secretary shall provide assistance to such projects in the development of resources and equipment and facility needs.

"(b) The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a).".

**SEC. 504. URBAN NIAAA TRANSFERRED PROGRAMS.**

Title V of the Act (as amended by section 503 of this Act) is amended by adding at the end the following new section:

"URBAN NIAAA TRANSFERRED PROGRAMS

"SEC. 513. (a) The Secretary shall, within the Branch of Urban Health Programs of the Service, make grants or enter into contracts for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as 'NIAAA') and transferred to the Service.

"(b) Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

"(c) Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

"(d) For the purpose of carrying out this section, the Secretary may combine NIAAA alcohol funds with other substance abuse funds currently administered through the Branch of Urban Health Programs of the Service.

"(e) The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every two years.".

**SEC. 505. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION.—Title V of the Act (as amended by section 504 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 514. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title V of the Act (25 U.S.C. 1650 et seq.) is amended—

(1) in section 503—

(A) in subsection (c), by striking out "(c)(1)" and inserting "(c)" and by striking out paragraph (2);

(B) in subsection (d), by striking out paragraph (4);

(C) in subsection (e), by striking out paragraph (4); and

(D) in subsection (f), by striking out paragraph (5); and

(2) in section 509 (as redesignated by section 902(5)(A) of this Act), by striking out the last sentence.

## TITLE VI—ORGANIZATIONAL IMPROVEMENTS

**SEC. 601. INDIAN HEALTH SERVICE.**

Section 601(c) of the Act (15 U.S.C. 1661(c)) is amended—

(1) in paragraph (2), by striking out "and" after the semicolon;

(2) in paragraph (3), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(4) all scholarship and loan functions carried out under title I.".

**SEC. 602. DIRECTOR OF INDIAN HEALTH SERVICE.**

(a) CONFIRMATION BY SENATE.—

(1) IN GENERAL.—Section 601(a) of the Act (25 U.S.C. 1661(a)) is amended in the second sentence by striking "Secretary" and inserting "President, by and with the advice and consent of the Senate".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect January 1, 1993.

(b) INTERIM APPOINTMENT.—The President may appoint an individual to serve as Interim Director of the Service from January 1, 1993, until such time as a Director is appointed and confirmed as provided in section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) (as amended by subsection (a) of this section).

(c) TERM.—Section 601(a) of the Act (25 U.S.C. 1661(a)) is amended by adding at the end the following: "Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.".

**SEC. 603. AUTHORIZATION OF APPROPRIATIONS.**

Title VI of the Act (25 U.S.C. 1661 et seq.) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 603. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

## TITLE VII—SUBSTANCE ABUSE PROGRAMS

**SEC. 701. REDESIGNATION OF EXISTING TITLE VII.**

(a) TITLE HEADING.—Title VII of the Act (25 U.S.C. 1671 et seq.) is redesignated as title VIII and the title heading is amended to read as follows:

"TITLE VIII—MISCELLANEOUS"

(b) REDESIGNATION OF SECTIONS.—Sections 701 through 720 of the Act (25 U.S.C. 1671 et seq.) are hereby redesignated as sections 801 through 820, respectively.

(c) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 207(a), by striking out "section 713" and inserting in lieu thereof "section 813";

(2) in section 307(e), by striking out "section 713" and inserting in lieu thereof "section 813"; and

(3) in section 405(b)—

(A) in paragraph (1), by striking out "sections 402(c) and 713(b)(2)(A)" and inserting in lieu thereof "sections 402(a) and 813(b)(2)(A)"; and

(B) in paragraph (4), by striking out "section 402(c)" each place it appears and inserting in lieu thereof "section 402(a)".

(d) REFERENCES.—Any reference in a provision of law other than the Indian Health Care Improvement Act to sections redesignated by subsection (b) shall be deemed to refer to the section as so redesignated.

**SEC. 702. SUBSTANCE ABUSE PROGRAMS.**

(a) IN GENERAL.—The Act is amended by inserting after title VI the following new title:

"TITLE VII—SUBSTANCE ABUSE PROGRAMS

"INDIAN HEALTH SERVICE RESPONSIBILITIES

"SEC. 701. The Memorandum of Agreement entered into pursuant to section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) shall include specific provisions pursuant to which the Service shall assume responsibility for—

"(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

"(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

"(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

"INDIAN HEALTH SERVICE PROGRAM

"SEC. 702. (a) COMPREHENSIVE PREVENTION AND TREATMENT PROGRAM.—(1) The Secretary, acting through the Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

"(A) prevention, through educational intervention, in Indian communities;

"(B) acute detoxification and treatment;

"(C) community-based rehabilitation;

"(D) community education and involvement, including extensive training of health care, educational, and community-based personnel; and

"(E) residential treatment programs for pregnant and post partum women and their children.

"(2) The target population of such program shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

"(b) CONTRACT HEALTH SERVICES.—(1) The Secretary, acting through the Service, may enter into contracts with public or private providers of alcohol and substance abuse treatment services for the purpose of assisting the Service in carrying out the program required under subsection (a).

"(2) In carrying out this subsection, the Secretary shall provide assistance to Indian tribes to develop criteria for the certification of alcohol and substance abuse service providers and accreditation of service facilities which meet minimum standards for such services and facilities as may be determined pursuant to section 4205(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411(a)(3)).

"(c) GRANTS FOR MODEL PROGRAM.—(1) The Secretary, acting through the Service shall make a grant to the Standing Rock Sioux Tribe to develop a community-based demonstration project to reduce drug and alcohol abuse on the Standing Rock Sioux Reservation and to rehabilitate Indian families afflicted by such abuse.

"(2) Funds shall be used by the Tribe to—

"(A) develop and coordinate community-based alcohol and substance abuse prevention and treatment services for Indian families;

"(B) develop prevention and intervention models for Indian families;

"(C) conduct community education on alcohol and substance abuse; and

"(D) coordinate with existing Federal, State, and tribal services on the reservation to develop a comprehensive alcohol and substance abuse program that assists in the rehabilitation of Indian families that have been or are afflicted by alcoholism.

"(3) The Secretary shall submit to the President for inclusion in the report to be transmitted to the Congress under section 801 for fiscal year 1995 an evaluation of the demonstration project established under paragraph (1).

"INDIAN WOMEN TREATMENT PROGRAMS

"SEC. 703. (a) The Secretary may make grants to Indian tribes and tribal organizations to develop and implement a comprehensive alcohol and substance abuse program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social, and child care needs of Indian women, regardless of age.

"(b) Grants made pursuant to this section may be used to—

"(1) develop and provide community training, education, and prevention programs for Indian women relating to alcohol and substance abuse issues, including fetal alcohol syndrome and fetal alcohol effect;

"(2) identify and provide appropriate counseling, advocacy, support, and relapse prevention to Indian women and their families; and

"(3) develop prevention and intervention models for Indian women which incorporate traditional healers, cultural values, and community and family involvement.

"(c) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

"(d)(1) There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) Twenty percent of the funds appropriated pursuant to this subsection shall be used to make grants to urban Indian organizations funded under title V.

"INDIAN HEALTH SERVICE YOUTH PROGRAM

"SEC. 704. (a) DETOXIFICATION AND REHABILITATION.—The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

"(b) TREATMENT CENTERS OR FACILITIES.—(1) The Secretary shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an area office. For the purposes of this subsection, the area offices of the Service in Tucson and Phoenix, Arizona, shall be considered one area office and the area office in California shall be considered to be two area offices, one office whose jurisdiction shall be considered to encompass the northern area of the State of California, and one office whose jurisdiction shall be considered to encompass the remainder of the State of California.

"(2) For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

"(3) A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

"(4)(A) Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

"(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

"(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

"(B) Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.

"(c) FEDERALLY OWNED STRUCTURES.—

"(1) The Secretary, acting through the Service, shall, in consultation with Indian tribes—

"(A) identify and use, where appropriate, federally owned structures suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth; and

"(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

"(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure.

"(d) REHABILITATION AND AFTERCARE SERVICES.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

"(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

"(e) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—In providing the treatment and other services to Indian youth authorized by this section, the Secretary shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (d) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

"(f) MULTIDRUG ABUSE STUDY.—(1) The Secretary shall conduct a study to determine the incidence and prevalence of the abuse of multiple forms of drugs, including alcohol, among Indian youth residing on Indian reservations and in urban areas and the interrelationship of such abuse with the incidence of mental illness among such youth.

"(2) The Secretary shall submit a report detailing the findings of such study, together with recommendations based on such findings, to the Congress no later than two years after the date of the enactment of this section.

"TRAINING AND COMMUNITY EDUCATION

"SEC. 705. (a) COMMUNITY EDUCATION.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

"(b) TRAINING.—The Secretary shall, either directly or by contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

"(c) COMMUNITY-BASED TRAINING MODELS.—In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with tribes and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

"(1) the elevated risk of alcohol and substance abuse faced by children of alcoholics;

"(2) the cultural and multigenerational aspects of alcohol and substance abuse prevention and recovery; and

"(3) community-based and multidisciplinary strategies for preventing and treating alcohol and substance abuse.

"GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER

"SEC. 706. (a) GRANTS FOR RESIDENTIAL TREATMENT.—The Secretary shall make grants to the Navajo Nation for the purpose of providing residential treatment for alcohol and substance abuse for adult and adolescent members of the Navajo Nation and neighboring tribes.

"(b) PURPOSES OF GRANTS.—Grants made pursuant to this section shall (to the extent appropriations are made available) be used to—

"(1) provide at least 15 residential beds each year for adult long-term treatment, including beds for specialized services such as

polydrug abusers, dual diagnosis, and specialized services for women with fetal alcohol syndrome children;

"(2) establish clinical assessment teams consisting of a clinical psychologist, a part-time addictionologist, a master's level assessment counselor, and a certified medical records technician which shall be responsible for conducting individual assessments and matching Indian clients with the appropriate available treatment;

"(3) provide at least 12 beds for an adolescent shelterbed program in the city of Gallup, New Mexico, which shall serve as a satellite facility to the Acoma/Canoncito/Laguna Hospital and the adolescent center located in Shiprock, New Mexico, for emergency crisis services, assessment, and family intervention;

"(4) develop a relapse program for the purposes of identifying sources of job training and job opportunity in the Gallup area and providing vocational training, job placement, and job retention services to recovering substance abusers; and

"(5) provide continuing education and training of treatment staff in the areas of intensive outpatient services, development of family support systems, and case management in cooperation with regional colleges, community colleges, and universities.

"(c) CONTRACT FOR RESIDENTIAL TREATMENT.—The Navajo Nation, in carrying out the purposes of this section, shall enter into a contract with an institution in the Gallup, New Mexico, area which is accredited by the Joint Commission of the Accreditation of Health Care Organizations to provide comprehensive alcohol and drug treatment as authorized in subsection (b).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out the purposes of subsection (b)(1)—

"(A) $400,000 for fiscal year 1993;

"(B) $400,000 for fiscal year 1994; and

"(C) $500,000 for fiscal year 1995;

"(2) to carry out the purposes of subsection (b)(2)—

"(A) $100,000 for fiscal year 1993;

"(B) $125,000 for fiscal year 1994; and

"(C) $150,000 for fiscal year 1995;

"(3) to carry out the purposes of subsection (b)(3)—

"(A) $75,000 for fiscal year 1993;

"(B) $85,000 for fiscal year 1994; and

"(C) $100,000 for fiscal year 1995;

"(4) to carry out the purposes of subsection (b)(4), $150,000 for each of fiscal years 1993, 1994, and 1995; and

"(5) to carry out the purposes of subsection (b)(5)—

"(A) $75,000 for fiscal year 1993;

"(B) $90,000 for fiscal year 1994; and

"(C) $100,000 for fiscal year 1995.

"REPORTS

"SEC. 707. (a) COMPILATION OF DATA.—The Secretary, with respect to the administration of any health program by a service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents in which any Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

"(b) REFERRAL OF DATA.—The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan under section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.).

"(c) COMPREHENSIVE REPORT.—Each service unit director shall be responsible for assembling the data compiled under this section and section 4214 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2434) into an annual tribal comprehensive report. Such report shall be provided to the affected tribe and to the Director of the Service who shall develop and publish a biennial national report based on such tribal comprehensive reports.

"FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT GRANTS

"SEC. 708. (a)(1) The Secretary may make grants to Indian tribes and tribal organizations to establish fetal alcohol syndrome and fetal alcohol effect programs as provided in this section for the purposes of meeting the health status objectives specified in section 3(b).

"(2) Grants made pursuant to this section shall be used to—

"(A) develop and provide community and in-school training, education, and prevention programs relating to FAS and FAE;

"(B) identify and provide alcohol and substance abuse treatment to high-risk women;

"(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to FAS and FAE affected persons and their families or caretakers;

"(D) develop and implement counseling and support programs in schools for FAS and FAE affected children;

"(E) develop prevention and intervention models which incorporate traditional healers, cultural values and community involvement;

"(F) develop, print, and disseminate education and prevention materials on FAS and FAE; and

"(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

"(3) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

"(b) The Secretary, acting through the Service, shall—

"(1) develop an annual plan for the prevention, intervention, treatment, and aftercare for those affected by FAS and FAE in Indian communities;

"(2) conduct a study, directly or by contract with any organization, entity, or institution of higher education with significant knowledge of FAS and FAE and Indian communities, of the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians and Alaska Natives with FAS or FAE; and

"(3) establish a national clearinghouse for prevention and educational materials and other information on FAS and FAE effect in Indian and Alaska Native communities and ensure access to clearinghouse materials by any Indian tribe or urban Indian organization.

"(c) The Secretary shall establish a task force to be known as the FAS/FAE Task Force to advise the Secretary in carrying out subsection (b). Such task force shall be composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian FAS/FAE experts.

"(d) The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make grants to Indian tribes, tribal organizations, universities working with Indian tribes on cooperative projects, and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide aftercare for Indians and urban Indians affected by FAS or FAE.

"(e)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the status of FAS and FAE in the Indian population. Such report shall include, in addition to the information required under section (3)(d) with respect to the health status objective specified in section (3)(b)(27), the following:

"(A) The progress of implementing a uniform assessment and diagnostic methodology in Service and tribally based service delivery systems.

"(B) The incidence of FAS and FAE babies born for all births by reservation and urban-based sites.

"(C) The prevalence of FAS and FAE affected Indian persons in Indian communities, their primary means of support, and recommendations to improve the support system for these individuals and their families or caretakers.

"(D) The level of support received from the entities specified in subsection (c) in the area of FAS and FAE.

"(E) The number of inpatient and outpatient substance abuse treatment resources which are specifically designed to meet the unique needs of Indian women, and the volume of care provided to Indian women through these means.

"(F) Recommendations regarding the prevention, intervention, and appropriate vocational, educational and other support services for FAS and FAE affected individuals in Indian communities.

"(2) The Secretary may contract the production of this report to a national organization specifically addressing FAS and FAE in Indian communities.

"(f)(1) There are authorized to be appropriated to carry out this section $22,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) Ten percent of the funds appropriated pursuant to this section shall be used to make grants to urban Indian organizations funded under title V.

"PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO

"SEC. 709. The Secretary, acting through the Service, shall continue to make grants, through fiscal year 1995, to the 8 Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.

"THUNDER CHILD TREATMENT CENTER

"SEC. 710. (a) The Secretary, acting through the Service, shall make a grant to the Intertribal Addictions Recovery Organization, Inc. (commonly known as the Thunder Child Treatment Center) at Sheridan, Wyoming, for the completion of construction of a multiple approach substance abuse treatment center which specializes in the

treatment of alcohol and drug abuse of Indians.

"(b) For the purposes of carrying out subsection (a), there are authorized to be appropriated $2,000,000 for fiscal years 1993 and 1994. No funding shall be available for staffing or operation of this facility. None of the funding appropriated to carry out subsection (a) shall be used for administrative purposes.

"SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT

"SEC. 711. (a) The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

"(b) Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

"(c) A contract entered into or a grant provided under this section shall be for a period of one year. Such contract or grant may be renewed for an additional one year period upon the approval of the Secretary.

"(d) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

"(e) The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

"(f) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

"(g) For the purposes of this section, the following definitions apply:

"(1) The term 'educational curriculum' means one or more of the following:

"(A) Classroom education.

"(B) Clinical work experience.

"(C) Continuing education workshops.

"(2) The term 'eligible community college' means an accredited community college that—

"(i) is located on or near an Indian reservation;

"(ii) has entered into a cooperative agreement with the governing body of such Indian reservation to carry out a demonstration project under this section; and

"(iii) has a student enrollment of not less than 10 percent Indian.

"(3) The term 'tribally controlled community college' has the meaning given such term in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

"(4) The term 'tribally controlled postsecondary vocational institution' has the meaning given such term in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)).

"(h) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997, such sums as may be necessary to carry out the purposes of this section. Such sums shall remain available until expended.

"GILA RIVER ALCOHOL AND SUBSTANCE ABUSE TREATMENT FACILITY

"SEC. 712. (a) The Secretary, acting through the Service, shall establish a regional youth alcohol and substance abuse prevention and treatment center in Sacaton, Arizona, on the Gila River Indian Reservation. The center shall be established within facilities leased, with the consent of the Gila River Indian Community, by the Service from such Community.

"(b) The center established pursuant to this section shall be known as the 'Regional Youth Alcohol and Substance Abuse Prevention and Treatment Center'.

"(c) The Secretary, acting through the Service, shall establish, as a unit of the regional center, a youth alcohol and substance abuse prevention and treatment facility in Fallon, Nevada.

"ALASKA NATIVE DRUG AND ALCOHOL ABUSE DEMONSTRATION PROJECT

"SEC. 713. (a) The Secretary, acting through the Service, shall make grants to the Alaska Native Health Board for the conduct of a two-part community-based demonstration project to reduce drug and alcohol abuse in Alaska Native villages and to rehabilitate families afflicted by such abuse. Sixty percent of such grant funds shall be used by the Health Board to stimulate coordinated community development programs in villages seeking to organize to combat alcohol and drug use. Forty percent of such grant funds shall be transferred to a qualified nonprofit corporation providing alcohol recovery services in the village of St. Mary's, Alaska, to enlarge and strengthen a family life demonstration program of rehabilitation for families that have been or are afflicted by alcoholism.

"(b) The Secretary shall submit to the President for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1995 an evaluation of the demonstration project established under subsection (a).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 714. Except as provided in sections 703, 706, 708, 710, and 711, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out the provisions of this title.".

(b) REDESIGNATION AND REPEAL OF EXISTING PROVISIONS.—

(1) REDESIGNATION.—The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.) is amended by redesignating section 4224 as section 4208A.

(2) REPEAL.—Part 6 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.), as amended by paragraph (1), is hereby repealed.

**SEC. 703. INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACT OF 1986 AMENDMENTS.**

The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.) is amended—

(1) in section 4206—

(A) in subsection (c)—

(i) in paragraph (2)—

(I) by striking "(2) the" and inserting "(B) the";

(II) by striking "(3) the" and inserting "(C) the";

(III) by striking "(4) the" and inserting "(D) the";

(IV) in subparagraph (D) (as redesignated by subclause (III)), by striking "and" at the end;

(V) in subparagraph (E), by striking the period at the end and inserting ", and"; and

(VI) by adding at the end the following new subparagraph:

"(F) an evaluation component to measure the success of efforts made."; and

(ii) by adding at the end the following new paragraph:

"(3) All Tribal Action Plans shall be updated every 2 years."; and

(B) in subsection (d), by amending paragraph (2) to read as follows:

"(2) There are authorized to be appropriated for grants under this subsection not more than $2,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000."; and

(C) by adding at the end the following new subsection:

"(f)(1) The Secretary of the Interior may make grants to Indian tribes adopting a resolution pursuant to subsection (a) to implement and develop community and in-school training, education, and prevention programs on alcohol and substance abuse, fetal alcohol syndrome and fetal alcohol effect.

"(2) Funds provided under this section may be used for, but are not limited to, the development and implementation of tribal programs for—

"(A) youth employment;

"(B) youth recreation;

"(C) youth cultural activities;

"(D) community awareness programs; and

"(E) community training and education programs.

"(3) There are authorized to be appropriated to carry out the provisions of this subsection $5,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(2) in section 4207(b), by amending paragraph (3) to read as follows:

"(3) The Assistant Secretary of the Interior for Indian Affairs shall appoint such employees to work in the Office of Alcohol and Substance Abuse, and shall provide such funding, services, and equipment as may be necessary to enable the Office of Alcohol and Substance Abuse to carry out its responsibilities.";

(3) in section 4210, by amending subsection (b) to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(4) in section 4212(a), by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000";

(5) in section 4213(e), by amending paragraphs (1) and (2) to read as follows:

"(1) For the planning and design, construction, and renovation of, or purchase or lease of land or facilities for, emergency shelters and half-way houses to provide emergency care for Indian youth, there are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) For the staffing and operation of emergency shelters and half-way houses, there

are authorized to be appropriated $5,000,000 for fiscal year 1993 and $7,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(6) in section 4216(a)(1)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(C) the Makah Indian Tribe of Washington for the investigation and control of illegal narcotic traffic on the Makah Indian Reservation arising from its proximity to international waters.";

(7) by amending section 4216(a)(3) to read as follows:

"(3) For the purpose of providing the assistance required by this subsection, there are authorized to be appropriated—

"(A) $500,000 under paragraph (1)(A) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000,

"(B) $500,000 under paragraph (1)(B) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000, and

"(C) $500,000 under paragraph (1)(C) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(8) by amending section 4216(b) to read as follows:

"(b)(1) MARIJUANA ERADICATION AND INTERDICTION.—The Secretary of the Interior, in cooperation with appropriate Federal, tribal, and State and local law enforcement agencies, shall establish and implement a program for the eradication of marijuana cultivation, and interdiction, investigation, and control of illegal narcotics trafficking within Indian country as defined in section 1152 of title 18, United States Code. The Secretary shall establish a priority for the use of funds appropriated under paragraph (2) for those Indian reservations where the scope of the problem is most critical, and such funds shall be available for contracting by Indian tribes pursuant to the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(2) For the purpose of establishing the program required by paragraph (1), there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(9) in section 4218, by amending subsection (b) to read as follows:

"(b) AUTHORIZATION.—For the purposes of providing the training required by subsection (a), there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999 and 2000."; and

(10) in section 4220(b), by amending paragraphs (1) and (2) to read as follows:

"(1) For the purpose of constructing or renovating juvenile detention centers as provided in subsection (a), there are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) For the purpose of staffing and operating juvenile detention centers, there are authorized to be appropriated $7,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

## TITLE VIII—MISCELLANEOUS

**SEC. 801. REPORTS.**

Section 801 of the Act (25 U.S.C. 1671) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"REPORTS

"SEC. 801. 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 a report containing—

"(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population;

"(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian tribes to address such impact;

"(3) a report on the use of health services by Indians—

"(A) on a national and area or other relevant geographical basis;

"(B) by gender and age;

"(C) by source of payment and type of service; and

"(D) comparing such rates of use with rates of use among comparable non-Indian populations.

"(4) a separate statement which specifies the amount of funds requested to carry out the provisions of section 201;

"(5) a separate statement of the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in section 814, relating to infant and maternal mortality and fetal alcohol syndrome;

"(6) the reports required by sections 3(d), 108(n), 203(b), 209(j), 301(c), 302(g), 305(a)(3), 403, 708(e), and 817(a), and 822(f);

"(7) for fiscal year 1995, the report required by sections 702(c)(3) and 713(b);

"(8) for fiscal year 1997, the interim report required by section 307(h)(1); and

"(9) for fiscal year 1999, the reports required by sections 307(h)(2), 512(b), 711(f), and 821(g).".

**SEC. 802. REGULATIONS.**

Section 802 of the Act (25 U.S.C. 1672) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"REGULATIONS

"SEC. 802. Prior to any revision of or amendment to rules or regulations promulgated pursuant to this Act, the Secretary shall consult with Indian tribes and appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.".

**SEC. 803. EXTENSION OF TREATMENT OF ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.**

Section 808 of the Act (25 U.S.C. 1678) (as redesignated by section 701(b) of this Act) is amended by striking out "1991" and inserting in lieu thereof "2000".

**SEC. 804. INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME.**

Section 814 of the Act (25 U.S.C. 1680d) (as redesignated by section 701(b) of this Act) is amended—

(1) by striking out "(a)"; and

(2) by striking out subsection (b).

**SEC. 805. REALLOCATION OF BASE RESOURCES.**

Section 817(a) of the Act (25 U.S.C. 1680(g)) (as redesignated by section 701(b) of this Act) is amended by striking out "Secretary has submitted to the Congress" and inserting in lieu thereof the following: "Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801,".

**SEC. 806. CHILD SEXUAL ABUSE TREATMENT PROGRAMS.**

Section 819 of the Act (25 U.S.C. 1680i) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"CHILD SEXUAL ABUSE TREATMENT PROGRAMS

"SEC. 819. (a) The Secretary and the Secretary of the Interior shall, for each fiscal year through fiscal year 1995, continue the demonstration programs involving treatment for child sexual abuse provided through the Hopi Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

"(b) Beginning October 1, 1995, the Secretary and the Secretary of the Interior may establish, in any service area, demonstration programs involving treatment for child sexual abuse, except that the Secretaries may not establish a greater number of such programs in one service area than in any other service area until there is an equal number of such programs established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).".

**SEC. 807. TRIBAL LEASING.**

Section 820 of the Act (25 U.S.C. 1680j) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"TRIBAL LEASING

"SEC. 820. Indian tribes providing health care services pursuant to a contract entered into under the Indian Self-Determination Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.".

**SEC. 808. EXTENSION OF TERMINATION DATE OF CERTAIN DEMONSTRATION PROJECTS; JOINT VENTURE PROJECTS.**

Section 818 of the Act (25 U.S.C. 1680h) (as redesignated by section 701(b) of this Act) is amended—

(1) in subsection (d)—

(A) in paragraph (1), by inserting before the period at the end the following: ", or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made"; and

(B) in paragraph (2), by striking "1994" and inserting "1996"; and

(2) by amending subsection (e) to read as follows:

"(e)(1) The Secretary, acting through the Service, shall make arrangements with Indian tribes to establish joint venture demonstration projects under which an Indian tribe shall expend tribal, private, or other available nontribal funds, for the acquisition or construction of a health facility for a minimum of 20 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a

health facility. A tribe may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

"(2) The Secretary shall make such an arrangement with an Indian tribe only if the Secretary first determines that the Indian tribe has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in paragraph (1).

"(3) An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe, or paid to a third party on the tribe's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, or for personnel or staffing, shall be recoverable.".

**SEC. 809. HOME AND COMMUNITY BASED CARE DEMONSTRATION PROJECT.**

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended by adding at the end the following new section:

"HOME- AND COMMUNITY-BASED CARE DEMONSTRATION PROJECT

"SEC. 821. (a) The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations providing health care services pursuant to a contract entered into under the Indian Self-Determination Act, to establish demonstration projects for the delivery of home- and community-based services to functionally disabled Indians.

"(b)(1) Funds provided for a demonstration project under this section shall be used only for the delivery of home- and community-based services (including transportation services) to functionally disabled Indians.

"(2) Such funds may not be used—

"(A) to make cash payments to functionally disabled Indians;

"(B) to provide room and board for functionally disabled Indians;

"(C) for the construction or renovation of facilities or the purchase of medical equipment; or

"(D) for the provision of nursing facility services.

"(c) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and issue criteria for the approval of applications submitted under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of tribes and tribal organizations to deliver, or arrange for the delivery of, high quality, culturally appropriate home- and community-based services to functionally disabled Indians;

"(d) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(e) At the discretion of the tribe or tribal organization, services provided under a demonstration project established under this section may be provided (on a cost basis) to persons otherwise ineligible for the health care benefits of the Service.

"(f) The Secretary shall establish not more than 24 demonstration projects under this section. The Secretary may not establish a greater number of demonstration projects under this section in one service area than in any other service area until there is an equal number of such demonstration projects established with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria issued pursuant to subsection (c).

"(g) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.

"(h) For the purposes of this section, the following definitions shall apply:

"(1) The term 'home- and community-based services' means one or more of the following:

"(A) Homemaker/home health aide services.

"(B) Chore services.

"(C) Personal care services.

"(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

"(E) Respite care.

"(F) Training for family members in managing a functionally disabled individual.

"(G) Adult day care.

"(H) Such other home- and community-based services as the Secretary may approve.

"(2) The term 'functionally disabled' means an individual who is determined to require home- and community-based services based on an assessment that uses criteria (including, at the discretion of the tribe or tribal organization, activities of daily living) developed by the tribe or tribal organization.

"(i) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.".

**SEC. 810. SHARED SERVICES DEMONSTRATION PROJECTS.**

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 809 of this Act) is amended by adding at the end the following new section:

"SHARED SERVICES DEMONSTRATION PROJECT

"SEC. 822. (a) The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into contracts with Indian tribes or tribal organizations to establish not more than 6 shared services demonstration projects for the delivery of long-term care to Indians. Such projects shall provide for the sharing of staff or other services between a Service facility and a nursing facility owned and operated (directly or by contract) by such Indian tribe or tribal organization.

"(b) A contract entered into pursuant to subsection (a)—

"(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

"(2) shall provide that expenses (including salaries) relating to services that are shared between the Service facility and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

"(3) may authorize such tribe or tribal organization to construct, renovate, or expand a nursing facility (including the construction of a facility attached to a Service facility), except that no funds appropriated for the Service shall be obligated or expended for such purpose.

"(c) To be eligible for a contract under this section, a tribe or tribal organization, shall, as of the date of the enactment of this Act—

"(1) own and operate (directly or by contract) a nursing facility;

"(2) have entered into an agreement with a consultant to develop a plan for meeting the long-term needs of the tribe or tribal organization; or

"(3) have adopted a tribal resolution providing for the construction of a nursing facility.

"(d) Any nursing facility for which a contract is entered into under this section shall meet the requirements for nursing facilities under section 1919 of the Social Security Act.

"(e) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(f) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the findings and conclusions derived from the demonstration projects conducted under this section.".

**SEC. 811. RESULTS OF DEMONSTRATION PROJECTS.**

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 810 of this Act) is amended by adding at the end the following new section:

"RESULTS OF DEMONSTRATION PROJECTS

"SEC. 823. The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this Act.".

**SEC. 812. PRIORITY FOR INDIAN RESERVATIONS.**

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 811 of this Act) is amended by adding at the end the following new section:

"PRIORITY FOR INDIAN RESERVATIONS

"SEC. 824. (a) Beginning on the date of the enactment of this section, the Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian tribe with jurisdiction over such lands.

"(b) For purposes of this section, the term "Indian lands" means—

"(1) all lands within the limits of any Indian reservation; and

"(2) any lands title which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.".

**SEC. 813. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION.—Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 812 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 825. Except as provided in section 821, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

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(b) CONFORMING AMENDMENTS.—Section 807 of the Act (25 U.S.C. 1677) (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended by striking out subsection (f).

**SEC. 814. TRIBAL SELF-GOVERNANCE PROJECT.**

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f note) is amended—

(1) in section 301, by inserting after "Interior" the following: "and the Secretary of Health and Human Services (hereafter in this title referred to as the 'Secretaries') each";

(2) in sections 302, 303, 304, and 305, by striking "Secretary" each place it appears and inserting in lieu thereof "Secretaries";

(3) in section 303(a)(1), by inserting after "Interior" the following: "and the Indian Health Service of the Department of Health and Human Services"; and

(4) by adding after section 309 the following new section:

"SEC. 310. For the purposes of providing one year planning and negotiations grants to the Indian tribes identified by section 302, with respect to the programs, activities, functions, or services of the Indian Health Service, there are authorized to be appropriated such sums as may be necessary to carry out such purposes. Upon completion of an authorized planning activity or a comparable planning activity by a tribe, the Secretary is authorized to negotiate and implement a Compact of Self-Governance and Annual Funding Agreement with such tribe.".

## TITLE IX—TECHNICAL CORRECTIONS

**SEC. 901. REPEAL OF EXPIRED REPORTING REQUIREMENTS.**

The Act is amended—

(1) in section 116, by striking out subsection (d);

(2) in section 204(a)—

(A) by striking out paragraph (2);

(B) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(D) in paragraph (2) (as redesignated by subparagraph (C)), by striking out "subparagraph (A)" and inserting in lieu thereof "paragraph (1)";

(3) in section 602, by striking out subsection (a)(3); and

(4) by striking out section 803 (as redesignated by section 701(b) of this Act).

**SEC. 902. OTHER TECHNICAL CORRECTIONS.**

The Act is amended—

(1) in section 4(c), by striking out "sections 102, 103, and 201(c)(5)," and inserting in lieu thereof the following: "sections 102 and 103,";

(2) in title I—

(A) in section 102(b)(1), by striking ": *Provided*, That the" and inserting in lieu thereof ". The";

(B) in section 105(c), by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services";

(C) in section 108(d)(1)(A), by striking out "Indian Health" and inserting in lieu thereof "Indian health"; and

(D) in section 108(i), by striking out "Service manpower programs" and inserting in lieu thereof "health professional programs of the Service".

(3) in title II—

(A) by striking out "**SEC. 209. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.**" and inserting in lieu thereof the following:

"MENTAL HEALTH PREVENTION AND TREATMENT SERVICES

"SEC. 209."; and

(B) in section 209, by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(4) in title III—

(A) by striking out "**SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.**" and inserting in lieu thereof the following:

"INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT

"SEC. 307."; and

(B) in section 301(d) (as redesignated by section 301(2) of this Act), by striking out "sections 102 and 103(b)" and inserting in lieu thereof "section 102";

(5) in title V—

(A) by striking out "**SEC. 409, FACILITIES RENOVATION.**" and inserting in lieu thereof the following:

"FACILITIES RENOVATION

"SEC. 509."; and

(B) by striking out "**SEC. 511. URBAN HEALTH PROGRAMS BRANCH.**" and inserting in lieu thereof the following:

"URBAN HEALTH PROGRAMS BRANCH

"SEC. 510.";

(6) in section 601(c)(3)(D), by striking out "(25 U.S.C. 2005, et seq.)" and inserting in lieu thereof "(42 U.S.C. 2005 et seq.)";

(7) in section 601(d)(1)(C), by striking out "appropriate" and inserting in lieu thereof "appropriated";

(8) in section 813(b)(2)(A) (as redesignated by section 701(b) of this Act), by striking out "section 402(c)" and inserting in lieu thereof "section 402(a)"; and

(9) by amending the heading for section 816 (as redesignated by section 701(b)) to read as follows:

"INDIAN HEALTH SERVICE AND DEPARTMENT OF VETERANS AFFAIRS HEALTH FACILITIES AND SERVICES SHARING".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] 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 S. 2481, the Senate bill now 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.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Mr. Speaker, I am a member of the Committee on Energy and Commerce and the Health and Environment Subcommittee. Our subcommittee had jurisdiction of this matter, as well.

Am I to be afforded any time in the debate of his measure?

The SPEAKER pro tempore. Will the gentleman from Arizona [Mr. RHODES] yield time to the gentleman?

Mr. RHODES. Mr. Speaker, I ask unanimous consent that 10 minutes of my 20 minutes be yielded to the gentleman from California [Mr. DANNEMEYER] and that he may control the time.

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

There was no objection.

Mr. MILLER of California. Mr. Speaker, S. 2481 reauthorizes the programs and services of the Indian Health Service. It represents the agreements of the committees of jurisdiction in the House and Senate. The Interior Committee has held several hearings on similar legislation and has worked very closely with the Energy and Commerce Committee and the Senate Select Committee on Indian Affairs to craft this bill which reflects the agreements of all three committees.

Mr. Speaker, since the 19th century the Federal Government has had the responsibility to provide health services to Indian people. This responsibility stems from the numerous treaties between the Federal Government and Indian tribes. Unfortunately, the Federal Government has not fully carried through on these obligations.

According to the Indian Health Service, Indian people still suffer the highest mortality rates in this Nation. Indian people are 400 percent more likely to die from tuberculosis than the rest of the country, Indian people are over 400 percent more likely to die from alcoholism, and Indian people are over 150 percent more likely to die from diabetes. According to a recent study by the University of Minnesota, Indian adolescents are four times more likely to attempt suicide than all other ethnic groups.

Mr. Speaker, it is not an exaggeration to say that Indian people have the lowest health status in this Nation. In recent years, we have seen a great deal of improvement in the health status of Indian people. We still have a long way to go.

This bill includes several innovative programs to address some very serious health problems confronting Indian people. The bill includes programs to address fetal alcohol syndrome, adolescent suicide, child sexual abuse, alcoholism, diabetes, tuberculosis, and long-term care for elderly Indian people.

In addition, the bill incorporates 58 specific health objectives development by the administration and published in the Healthy People 2000 report. It is our goal that through this legislation these objectives can be achieved by the year 2000.

Mr. Speaker, the House has already considered and overwhelmingly passed

a nearly identical measure H.R. 3724. This bill incorporates several of the Senate provisions and reflects the agreements of the House and Senate committees of jurisdiction. This bill has bipartisan support and I urge my colleagues to continue to support this very important measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of S. 2481, the Indian Health Amendments of 1992. New Mexico's Third Congressional District which I represent, has the largest native American constituency of any Member in the House with 19 pueblos, the Navajo Nation, and the Jicarilla Apache Tribe; 21 percent of my district's population is native American.

Unfortunately, the rich historical and cultural heritage of our Nation's Indians is being destroyed daily by high unemployment, poverty, and a health status that is far below that of the general population. The original Americans, to whom the U.S. Government has a trust responsibility, are falling through the cracks.

A recent Washington Post story on the survey of the status of native American teenagers just hints at the overwhelming problems faced by native Americans. Some of the conclusions of the study are and I quote: "[Native American teenagers are] the most devastated group of adolescents in the nation," and "for ever risk factor, with the exception of homicide, Native [American] kids are in far worse shape than African-American kids."

Additionally, a 1990 Department of Health and Human Services Healthy People 2000 report notes that native American populations, relative to other populations, are young and impoverished with one in four living below the poverty level. The telling factor in the report, however, is the explanation for the relative youth and poverty of native Americans, that is, that so many native Americans die before age 45. The exceedingly high death rate is traced to six causes: unintentional injuries, cirrhosis, homicide, suicide, pneumonia, and diabetes.

H.R. 3742 will give the Indian Health Service the resources it needs to begin to deal with many of these problems. I am particularly pleased that the legislation contains several important provisions I authored regarding fetal alcohol syndrome [FAS] which strikes without regard to race, or socioeconomic status. While FAS affects 1 in 250 live births, the incidence is 30 times higher among native Americans. The physical and mental birth defects which are symptomatic of FAS can occur whenever a woman drinks alcohol during pregnancy.

With respect to the critical problem of Indian alcoholism—I am also pleased H.R. 3742 includes a provision to expand alcohol and substance abuse treatment services in the city of Gallup in McKinley County, NM. The scourge of alcoholism in Indian country is nowhere more evident than in Gallup on the edge of the Navajo reservation. Alcohol related traffic accidents are seven times higher in Gallup than in the rest of the Nation and McKinley County has been cited by the National Institute on Alcohol and Alcohol abuse for having the highest composite index of alcohol related problems of all of the Nation's 3,106 counties. In 1990, the Gallup alcoholism crisis gained national media coverage on the NBC "Today Show," ABC's "20/20" documentary and the "McNeil-Lehrer News Hour."

H.R. 3742 contains these and other important provisions to begin to address the crisis in Indian health. I urge my colleagues support of this critical legislation.

In closing, it has been brought to my attention that the Indian Health Service refuses to enter into lease arrangements with tribes and tribal organizations when such organizations own their health facilities and also contract to administer the health program under Public Law 93-638. IHS, however, does enter into lease arrangements for these same facilities if the IHS operates the health program directly. Statutory language in the Indian Health Care Improvement Act and the Indian Self-Determination Act require the IHS to fund tribally contracted programs on the same basis as IHS programs.

I am gravely concerned that the discretionary authority to enter into leases with tribes and tribal organizations contained in section 701 of the Indian Health Care Improvement Act is being used by the IHS to circumvent its statutory responsibilities to fund tribal contractors on an equitable basis with IHS programs.

For these reasons, I worked to maintain language inserted by the Senate in the final legislation. Unfortunately, due to OMB opposition and time constraints associated with the close of the 102d Congress, we were unable to include the Senate provision.

However, I will continue to work to insure that IHS revises its leasing priority system to permit leases with tribes and tribal organizations which own facilities and contract to administer the health program under Public Law 93-638. Furthermore, I will be asking the GAO to conduct an investigation of the IHS leasing program and its compliance with existing statute.

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

Mr. RICHARDSON. I am happy to yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, on the gentleman's questions concerning the lease priority system, I will just say to him that I will continue to work to ensure that IHS revises its lease priority system to permit leases with tribes and tribal organizations which own facilities and contract to administer the health program under Public Law 93-638; furthermore, I am asking the GAO to conduct an investigation of the IHS leasing programs in compliance with those existing statutes.

Mr. RICHARDSON. I thank the gentleman. I think that is a very necessary measure.

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

Mr. Speaker, let me just say that I think the chairman, the gentleman from California [Mr. MILLER] has very adequately explained the purposes and content of the bill, and that I fully support it. I urge my colleagues to support it.

Mr. Speaker, I rise in full support of S. 2481, the Indian Health Amendments Act of 1992.

While the Government has provided health care services to native Americans since the 19th century as part of its responsibilities to the tribes, disturbingly glaring disparities have existed between the health status of native Americans and other American citizens.

In recognition of these disparities, Congress passed the Indian Health Care Improvement Act of 1976. A principal purpose of the act was to raise Indian health status to a level comparable with that of the general population over a 7-year period ending in 1984. The act was reauthorized in 1988 until the year 1993, and would be extended again by the present legislation until the year 2000.

The House version of this bill, H.R. 3724, passed by an overwhelming majority on September 15, 1992. The gentleman has already touched on some of the specifics of this legislation, so I will simply note that, while I ardently support most of the bill's provisions, I continue to object strongly to the provision that would exempt tribal self-insured employee health plans from the third-party liability for IHS health services. There is no compelling reason to exempt some employees from the legitimate liability their beneficiaries incur when they use health services provided by IHS. All employers, whether in the public or private sector, should be treated equally.

More importantly, because IHS operates a discretionary program, the exemption from third-party liability contemplated by this bill only serves to discriminate unfairly against poor and unemployed tribal members who have no other means of receiving health care. IHS retains all of its third-party collections; thus, receiving reimbursement enable IHS to provide health care to a greater number of people who could not otherwise afford it. By exempting tribal self-insured employee health plans, the bill unfairly gives free services to those who could otherwise pay for them and consequently keeps IHS from providing services for those least able to afford it.

In closing, Mr. Speaker, despite the inclusion of this one provision, given the real need in Indian country for the services provided by this legislation, I wholeheartedly urge my colleagues to support S. 2481. Passage of this legislation will assure Indian people of continu-

ing access to high-quality, comprehensive health services appropriate to their needs, it will assist Indian tribes and Alaska Native Corporations in developing their capacity to staff and manage health programs and provide tribal organizations with the opportunity to assume operational authority for Indian Health Service programs serving their communities, and it will aid them in gaining access to other Federal, State, and local programs to which they are entitled.

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

Mr. Speaker and Members, I rise in opposition to this legislation, and I think that although the title is "Indian Health Amendments of 1992," since one of the primary beneficiaries of a provision of this bill will be the Navajo tribe in, wherever it is, New Mexico, Arizona, we may call this legislation the Navajo Relief Act of 1992.

I have been advised that the Navajo Tribe is self-insured for medical purposes.

There are about 4,000 people who work for that tribe who are self-insured for medical purposes, and I want to share with my colleagues how this bill, if it is adopted, will impact on the Navajo Nation and the ability to get reimbursement for medical services rendered to members of the Navajo tribe at facilities of the Indian Health Services.

□ 2210

Just imagine in your mind that there is in New Mexico, in Mr. RICHARDSON's district, I assume, a facility at the Indian Health Service. Next door there is another private clinic. If a member of the Navajo Nation would go to the private clinic for medical service, that private clinic could get reimbursement from the Navajo Nation for the medical service; but let us just assume that that member of the Navajo Nation went to the Indian Health Service next door, and if this bill becomes law, that Indian Health Service would not be able to get reimbursement from the Indian tribe.

Now, what kind of an arrangement is that, that Federal tax dollars going to build and supply and support this Indian Health Service, when they are given in the form of services to members of the Navajo Nation, that they cannot get reimbursement for that from the tribe's insurance. They are self-insured. That is the reason that the administration is opposed to this bill, because it would preclude this right of reimbursement. That is not good public policy.

There is another provision in this law as it has gone through the process, as is oftentimes the case around here, that whenever there is a train going through the station an effort is made by people along the way to attach different cars, and that certainly is true in this case. Different cars have been loaded on this train, and they place additional duties on the Indian Health Service, and they are having difficulty, candidly, performing the duties that have been assigned to them today.

When you deny the right of reimbursement on the part of the Indian Health Service over against the provider, or the Navajo Tribe, self-insured for medical purposes, what that means is that there is just that much less resource available to take care of those people who come in for medical service to the Indian Health Service. And it is another illustration, I guess, of them that has want to keep, and they do not want anybody else to get what they have.

That is an understandable human emotion, but I do not think we should honor that in this legislation.

And it is for these reasons that I believe that this bill should be opposed, and I ask for a "no" vote.

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

Mr. Speaker, I rise quickly to say that we fully debated this when this bill was before the House before. The bill passed 330 to 36. The fact is, again, that the insurance is not a question of overlap or reimbursement, this is if the elderly went out and bought MediGap insurance for uncovered services. These services are not provided. I would hope that my colleagues would support this legislation as they did previously.

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

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume to say at this time that I have in the past shared with my colleague from California, Mr. DANNEMEYER, his concern about the third-party reimbursement provisions in this bill. I think they are very valid concerns, but I think the valid concerns in this bill that deal with underservice or lack of service to the native American population in this country for medical care far override those concerns. I do not believe that there is anybody in this body or anybody in this country who can argue that the facts and figures and statistics as to the health status of native Americans relative to the health status of the rest of the citizens of this country cry out for specialized, directed, focused medical care for native Americans. There are very few who could argue that point, and that is what this bill is about.

Mr. Speaker, I agree with the gentleman from California [Mr. DANNEMEYER] that there is a defect in this bill as it relates to the third-party paying provisions. But I believe that the purposes, the overall purposes of the bill, and the overall needs it intends to serve and will serve, and the overall harm that has been done by lack of medical service far overrides those concerns and calls out to all of our Members to support this bill and to vote for its passage.

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

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume. I have one additional comment to share with my colleagues. This Member from California, on the point of third-party reimbursement, offered an amendment when the bill was before the House several weeks ago, as I recall. There were about 160 votes for that amendment. That is a pretty good showing to delete this provision that the administration says causes it to say they are opposed to this bill. I think that needs to be taken into consideration.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, let me thank the chairman for yielding time to me.

Mr. Speaker, the self-insurance provision Mr. DANNEMEYER is referencing addresses a problem brought to my attention by the Navajo Nation and the Alamo Navajo School Board. Specifically, the Navajo Nation has had a contract with a private carrier since 1988 to provide health insurance coverage to the Nation's approximately 7,000 employees who are both Indian and non-Indian.

The policy covers only those employees who are ineligible for IHS services or who need health services which cannot be met by the IHS.

More importantly, the policy is paid for entirely by funds from the Navajo Nation's general fund.

Furthermore, the insurance policy reimburses the IHS for all medical services provided by the IHS to non-Indian Navajo Nation employees.

Despite these efforts, the IHS notified the Navajo Nation in April 1989 that it would begin billing and collecting from the Navajo Nation's health insurance policy.

The self-insurance provision simply allows the Navajo Nation to use their health care policy the way it was designed, thus providing health care to those who otherwise would not have access to IHS services and providing additional health care benefits to tribal employees willing to pay extra for them.

In short, the self-insurance provision clearly states that the IHS may not attempt recovery of any kind from any self-insurance plan funded by an Indian tribe or tribal organization.

The Navajo Nation has many problems including a deep and abiding poverty, alcoholism, suicide and an unemployment rate which tops the Nation, ranging from 38 to 50 percent depending upon the season.

Despite the overwhelming problems facing the Navajo Nation, the nation

acted as a responsible employer providing health insurance to non-Indian employees, a population which otherwise would have no health insurance.

They did so within their means, in an effort to keep premiums affordable, tailoring the program only to those who had no access to IHS services or those who needed services IHS could not provide.

I might add that since the administration has done little to stop the skyrocketing cost of health care, you can hardly blame poverty stricken tribes from tailoring their insurance program to avoid high cost premiums.

Additionally, without the Navajo Nation's actions to provide insurance for its non-Indian employees, this population would have been added to the existing 37 million Americans with no health insurance.

Quite frankly, there are many areas in which IHS is clearly inadequate including long waits, overcrowded, and old facilities, inadequate medical equipment, and lack of specialists. Why should Navajo's be any different from any other American? They want the same right to choose their doctor as every other American and they should not be prevented by the administration from getting the best care available if they are willing to pay for it.

I believe my colleague, Mr. DANNEMEYER, has failed to factor in that the Navajo Nation's initiative in this area saves the IHS a considerable amount of money,time, and effort as those tribal members who choose to obtain private health care using their private insurance are not using IHS facilities and doctors, thus greatly reducing the burden on IHS.

Finally, and most importantly, the self-insurance provision protects the trust responsibility of the U.S. Government to our Nation's Indians to provide medical services and care to native Americans. IHS's attempt to collect from tribal insurance policies was a blatant violation of this trust responsibility as established by the Treaty agreements of 1850 and 1868.

The fact is, native Americans are entitled to use IHS facilities and services without being charged for them.

IHS's billing practices also violated the sovereignty of the Navajo Nation. As a sovereign nation, the Navajo's may exercise their right of self-government by creating and administering its own health insurance program.

I might also add that the administration is supporting this legislation and that the House has already addressed this issue once, voting down the Dannemeyer amendment.

In closing, I want to point out to my colleagues that Mr. DANNEMEYER already attempted to strip out this provision unsuccessfully on the floor. His amendment failed. Additionally, this same provision was included in the Senate bill and has the strong support of the Senate Republicans. I urge my colleagues to support passage of the Indian Health Care Amendments.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume. I would just like to share with my colleagues where we are procedurally. As you may recall, the House passed its version of this bill, the Senate passed the bill, and no conferees were appointed. The existence of conferees was circumvented.

Now, the process has presented us this evening with the reality of the Senate bill on the floor that is substantially different from the House bill, which the House voted on. I want to add to my colleagues the things that were added, that are in the Senate bill that were never in the House bill. These are the additions to this legislation that the House never voted on yet: Nursing school clinics, establishes a program of grants for schools of nursing to establish health care clinics, authorizes $5 million for fiscal 1993 through the year 2000.

□ 2220

Loan repayments. Sets aside 25 percent of funds for nurses and 10 percent for mental health professionals.

Matching grants to tribes. Grants to tribes for health professional scholarships, requires an 80-percent nonfederal match of funds.

University of South Dakota, demonstrations to be conducted by the University of South Dakota regarding retention of health professionals and Indian facilities.

Epidemiology, a program of grants to tribes to the purpose of collecting epidemiology data, authorized at $12 million for fiscal year 1992 and such sums for fiscal year 1994 by the year 2,000.

American Indians into psychology, a program of grants to at least three universities to develop career recruitment programs as means of encouraging Indians to enter mental health fields.

Prevention, control and elimination of tuberculosis, a program of grants to tribes for the prevention, control and elimination of tuberculosis.

Demonstration of electronic data submission, authorizes the Secretary to develop two demonstration projects regarding how to develop communications and computer technology can be used to improve the efficiency of information exchanged on billing and utilization of data.

And finally, the Office of Indian Women's Health Care establishes an Office of Indian Women's Health Care in the Indian Health Service.

Mr. Speaker, I think it is obvious to all of us that some of these additions are meritorious in advancing the health of Indians. Some of them I think can properly be classified as pork, plain and simple, adding to the bureaucracy of some of these universities around the country.

I do not know whether there are any Navajo Indians in the University of South Dakota on the faculty. If there are not, there ought to be, I suppose.

I think what we are witnessing here is at the last minute to have a bill adopted that is going to add some pork in an extensive way.

For these additional reasons, I think this measure should be rejected.

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

I do not denigrate the motivations of my friend, the gentleman from California [Mr. DANNEMEYER]. The gentleman from California [Mr. DANNEMEYER] is a dogged defender of the Federal budget and a dogged defender of the rights of all Americans. I know that my friend recognizes the health needs that we are trying to deal with.

I think our difference of opinion here basically lies not so much in whether or not we need to deal with these needs, but in how we do so.

While I do not support the position that the gentleman from California [Mr. DANNEMEYER] is putting forth here tonight, I respect him for doing so.

I do not wish anybody to conclude from the remarks of the gentleman from California [Mr. DANNEMEYER] that he has any less concern for the health needs of Native Americans than any of the rest of us.

It would be remiss of me not to recognize the efforts of Chairman MILLER and the gentleman from New Mexico [Mr. RICHARDSON] in this regard as well.

We are of a mind, all of a single mind. We know full well that while the land of the Dinee, the Navajo, may to some of our eastern brethren look arid and barren, it is some of the most achingly beautiful country in the world, and yet is is hard, worse than hard to make a living off that land.

We know full well that while the Dinee, the Navajo, are the most populus and therefore maybe get the most attention in comparision to some other Indian communities around the country, the Rosebud Reservation in the Dakotas and elsewhere, they may even be well off.

We need this legislation. They need this legislation. This is not just important. This is literally life and death.

While there can be some flaws in here, and I agree with the gentleman from California [Mr. DANNEMEYER] on some of those flaws that he points out, the flaws do not outweigh the things that we need to do, the things that are required and that are answered in large measure and not in full measure by this bill.

Mr. Speaker, I urge its adoption.

The SPEAKER pro tempore. [Mr. KOLTER]. Without objection, the gentleman from New Mexico [Mr. RICHARDSON] will claim the time of the gentleman from California [Mr. MILLER].

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of S. 2481, the Indian Health Care Improvement Act of 1992. This bill is the result of the hard work of the House Interior and Insular Affairs Committee, the Energy and Commerce Committee, and the Senate Select Committee on Indian Affairs. This bill proposes to authorize the Indian Health Care Improvement Act [IHCIA] originally signed into law in 1976, revised and reauthorized a couple of times since then. The law was the first comprehensive Federal law to define the Indian health care programs and was in response to documented flaws in the health status of Indians and Alaska Natives. I am pleased to be an original cosponsor of the bill and urge favorable consideration by this body.

This bill mandates an annual budget of $1.4 billion beginning in 1994 to be distributed between Alaska Natives and lower 48 tribes. Alaska natives will receive a portion of the $1.4 billion each year based on a formula developed by IHS and BIA to allocate funds between Alaska Natives and the lower 48 Indian tribes.

Title I of the act is designed to accomplish two goals: First, to increase the number of Indians trained in the health care professions; and second, to provide a larger pool of health professionals to serve Indian people. IHS will establish a variety of programs such as: First, recruitment and scholarship programs; and second, a retention bonus program to keep key medical personnel in the more rural areas.

This title also includes language for the upgrading of the Community Health Aide Program in Alaska. This program provides a vital link between the remote villages and the regional health facilities in Alaska.

Title II of the act mandates that several programs be implemented to elevate the health status of Alaska Natives and Indian tribes to the rest of the Nation. Under this title, the Indian health care improvement fund would be established to implement these programs 3 years after the President signs this bill. Programs which would benefit Alaska Natives include:

Patient travel cost, Indian youth grant program, health promotion and disease prevention, mental health prevention and treatment services, comprehensive School Health Education programs, diabetes prevention, treatment and control, mental health prevention and treatment services, new studies and demonstration programs, that is, Hospice care feasibility study, coverage of screening mammography, third party reimbursement, epidemiology centers, comprehensive school health education programs, and Indian youth grant program.

Title III of the act pertains to the construction of health facilities such as hospitals, clinics, and staff quarters. Alaska Native organizations may apply for grants to upgrade existing facilities or construct new facilities. Title III also addresses the problem of safe water and sanitary waste disposal facilities in Alaska Native and Indian country. This provision is extremely important to my Alaska Native constituents. Recently, the Anchorage Daily News ran a week long series of the problem of sewage disposal in rural villages in Alaska. In 1990, 60 percent of the residents in the small village of Kotlik had to be medivaced to the Bethel hospital for emergency treatment of viral meningitis. It is inexcusable that in this day and age that residents of a small rural community such as Kotlik do not have the basic water and sewer facilities that the rest of this Nation enjoys. I am extremely pleased that we are finally addressing the problem of safe water and sewage facilities in Alaska Native and Indian country. I want to thank members of the committees on aggressively addressing this problem. It is long overdue. Grants would be awarded on a priority basis nationwide and I urge my Alaska Native villages to apply for these grants.

Title IV of the act establishes a program of grants and contracts with tribal organizations to assist eligible Alaska Natives in obtaining Medicare/Medicaid benefits.

Title V of the act, as amended by the 1980 amendments, authorized grants to urban Indian organizations to provide outreach and referral services to Indians in urban and other areas.

Title VI provides organizational improvements in the Indian Health Service.

Title VII directs the Secretary, acting through IHS, to provide a program of substance abuse prevention and treatment to Alaska Natives and Indian tribes. Grants will be made available to Alaska Native organizations for problems such as fetal alcohol syndrome. Three programs are scheduled for Alaska. First, Tanana Chiefs Conference, Inc. to operate a youth treatment facility in Fairbanks, AK, second, the Southeast Alaska Regional Health Corp. to staff and operate a residential youth facility and third, the Alaska Native drug and alcohol abuse demonstration project which authorizes 60 percent of the grant funds to be used by the Alaska Native Health Board to stimulate coordinated community development programs to villages seeking to combat alcohol and drug abuse. The remaining 40 percent of this grant would be to provide alcohol recovery services in the village of St. Mary's, AK.

Title VIII directs the President to include reports with the submission of his annual budget showing that the objectives of this act are being met. The title authorizations appropriations of Indian health care programs through fiscal year 2000.

I believe S. 2481 is a good bill and urge my colleagues to pass this bill. Thank you.

Mr. BEREUTER. Mr. Speaker, this Member rises today in support of the conference report on H.R. 3724, the Indian Health Amendments of 1992. This legislation will take positive steps toward improving the health of all native Americans.

It is a well documented fact that the health care status of native Americans is far below the status of the non-Indian population in the United States. This legislation is designed to help prevent many of these health problems and provide better access to care.

There are several sections of the legislation that this Member would like to highlight today. Important new guidelines are given regarding the closure of IHS hospitals that would take into consideration the distance between the facility to be closed and the nearest IHS facility. These changes are critically important as IHS continues to consider hospital closures.

Several amendments added to the bill on the House Floor last month remain in the conference report. The gentleman from North Dakota [Mr. DORGAN] offered language to establish a demonstration project for adult substance abuse treatment. This Member was pleased to see the inclusion of adult substance abuse treatment in the bill as the success of the drug dependency unit at the Winnebago Indian Health Service Hospital in the First Congressional District of Nebraska which provides alcohol and substance abuse treatment for adults by native Americans in a hospital setting is well-documented.

In addition, the gentleman from Montana [Mr. WILLIAMS] offered an amendment regarding nursing home care which is included in the conference report. This language would allow Indian Health Service and tribal organizations to share the costs of certain services such as building maintenance, housekeeping, dietary activities, and administrative support.

This Member understandably has had a long standing interest, concern, and history of action in the area of alcohol and drug abuse among Indian people. Four tribes, the Santee Sioux, Omaha, Winnebago, and the newly restored Northern Ponca, reside in the First Congressional District of Nebraska and a small part of the Iowa-Sac reservation is also in my district.

Mr. Speaker, there are several provisions in the bill that deal with substance abuse. This bill reauthorizes the establishment of adolescent treatment centers originally authorized by legislation introduced by the distinguished former Member of the House from South Dakota, Mr. DASCHLE, who is now a Member of the other body, and this Member. While adolescents in each service area are currently receiving treatment, only about half of the services areas have established treatment centers. The bill rightly encourages IHS and the areas providing contract care to establish their own regional centers.

In addition the bill includes a fetal alcohol syndrome prevention measure sponsored by the distinguished gentlemen from Colorado [Mr. CAMPBELL]. It authorizes the Secretary of Health and Human Services to make grants for community training, education, and prevention programs for fetal alcohol syndrome and fetal alcohol effect. This Member strongly and enthusiastically supports these provisions.

Mr. Speaker, and colleagues, there is an urgent need to effectively combat fetal alcohol syndrome and fetal alcohol effect on a broad scale across this country especially among the native American population where it is such a common problem. This effort must be a national priority, for this disease reaps tragic, irreversible consequences on its innocent and helpless victims. This human tragedy can be prevented with the health and education programs created or reauthorized by this legislation.

Mr. Speaker, this Member strongly encourages his colleagues to support this legislation.

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

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

Mr. RICHARDSON. Mr. Speaker, we yield back the balance of our 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. 2481, as amended.

The question was taken.

Mr. DANNEMEYER. 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.

## AIRPORT AND AIRWAY SAFETY, CAPACITY, NOISE IMPROVEMENT, AND INTERMODAL TRANSPORTATION ACT OF 1992

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rule and pass the bill (H.R. 6093) to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1993, 1994, and 1995, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6093

*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 "Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992".

(b) TABLE OF CONTENTS.—


Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

Sec. 101. Declaration of policy.
Sec. 102. Airport improvement program.
Sec. 103. Airway improvement program.
Sec. 104. FAA operations.
Sec. 105. Linkage with passenger facility charges program.
Sec. 106. Apportionments.
Sec. 107. Military airports.
Sec. 108. Airport noise compatibility program.
Sec. 109. Maximum obligation of the United States.
Sec. 110. Terminal development.
Sec. 111. Letters of intent.
Sec. 112. Airport development defined.
Sec. 113. Public access and participation with respect to airports.
Sec. 114. National airway system.
Sec. 115. Definition of passengers enplaned.
Sec. 116. Extension of State block grant pilot program.
Sec. 117. Disadvantaged business enterprise.
Sec. 118. Extension of certain restrictions on contract and grant awards.
Sec. 119. Acquisition or construction of facilities for advanced training of maintenance technicians for air carrier aircraft.
Sec. 120. Air traffic controller staffing.
Sec. 121. Minimum number of air traffic controllers.
Sec. 122. Limitation on privatization of operation of certain airport control towers.
Sec. 123. Effects of airport noise.
Sec. 124. Aviation safety inspectors.
Sec. 125. Aircraft operations in winter conditions.
Sec. 126. Visual flight rule routes for complex terminal airspace areas.
Sec. 127. Study on reflectorization of taxiway and runway markings.
Sec. 128. Landbanking and options to purchase land.
Sec. 129. Lighting systems for aircraft obstructions and airport runways.
Sec. 130. Economic benefits of airport development projects.
Sec. 131. Soundproofing of certain residential buildings in areas surrounding airports.
Sec. 132. Laredo International Airport, Laredo, Texas.
Sec. 133. Study of small airport runway maintenance.
Sec. 134. Tucson study.
Sec. 135. Air traffic over Grand Canyon.

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

Sec. 201. Procurement reform.
Sec. 202. Aviation security training.
Sec. 203. Hazards to safe and efficient air commerce.
Sec. 204. National commission to promote a strong and competitive airline industry.

TITLE III—RESEARCH, ENGINEERING, AND DEVELOPMENT

Sec. 301. Short title.
Sec. 302. Aviation research authorization of appropriations.
Sec. 303. Deicing study.
Sec. 304. Aircraft noise research program.
Sec. 305. Use of domestic products.

TITLE IV—AVIATION INSURANCE

Sec. 401. Insurance for departments and agencies of the United States.
Sec. 402. Extension of program.
Sec. 403. Administration of aviation insurance program.
Sec. 404. Continuation of aviation insurance laws.

TITLE V—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND

Sec. 501. Extension of Airport and Airway Trust Fund.
Sec. 502. Clarification of trust fund revenues.


**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Nation's aviation system must be part of an intermodal transportation system consisting of hubs and interconnections with other forms of transportation that will move people and goods in the fastest, most efficient manner;

(2) our Nation's airports are our interconnections with the global economy; expanded flight capacity and greatly improved ground access for passengers and cargo are essential to our Nation's ability to compete in the international marketplace;

(3) without significant additional financial resources, the Nation's airports will be unable to accommodate fully the growing aviation and ground traffic demands of the 1990's;

(4) 27 of the Nation's top 100 airports are now unacceptably congested and the resulting delays in flights are costing our economy billions of dollars a year in lost productivity and undermining the Nation's ability to compete in the global economy;

(5) unless the capacity of our airports is increased substantially, the problem of flight delays will escalate dramatically and, by the year 2000, 40 major airports will be congested and incurring more than 20,000 hours of flight delay a year;

(6) the Nation must undertake an airport improvement and development program costing at least $7,000,000,000 a year over the next decade just to prevent the problem of airport delay from growing worse in the 21st century;

(7) neither State, local, nor Federal Government can independently finance the needed airport and intermodal development and there must be a combined effort relying on all levels of government;

(8) both the Federal airport improvement program and local passenger facility charge programs are essential to funding the development, as part of an intermodal transportation system, of airports (including necessary ground access eligible for funding under such programs) which meet our Nation's needs;

(9) the Nation's air traffic control system must be modernized with the highest advanced technology to enable it to continue to move traffic safely and efficiently and the necessary development and procurement of capital equipment will cost at least $18,000,000,000 over the next decade;

(10) the modernization of the air traffic control system will result in productivity and safety benefits of $257,000,000,000 over the life of the equipment purchased; these benefits include the value of time saved by airline passengers, reductions in airline operating costs, and reduced government expenditures and benefits from increased safety;

(11) there will need to be a continuing increase in staffing for the air traffic control system to enable controllers to handle, safely and efficiently, the increased workload which will arise as air transportation grows over the next decade;

(12) the Federal Government must play a major role in developing our aviation system; full use must be made of the more than $5,000,000,000 which aviation users contribute to the Airport and Airway Trust Fund each year and the $7,400,000,000 surplus which has accumulated in the Trust Fund;

(13) although survival of a strong and competitive airline industry is essential to our Nation's economic future—the Nation's airlines are in a financial and competitive crisis which threatens our entire aviation system and our Nation's ability to move people; major airlines have lost more than $6,000,000,000 over the past 2 years; many airlines have merged or discontinued operations; and new entry into the industry has ceased;

(14) the opportunities for new entrants and financially weak airlines to compete successfully can be maximized by the development of new airport capacity, particularly terminal facilities and gates, which will facilitate the ability of new airlines to compete against the airlines which now dominate the facilities at major hub airports;

(15) investment in the aviation transportation infrastructure of the United States will pay immediate and long-term dividends in jobs and economic productivity and provide the foundation for the Nation's continued leadership in the global economic competition of the 21st century;

(16) infrastructure investment differs significantly from other forms of government spending because it creates new wealth for the Nation;

(17) the wealth and economic strength of the United States is in the Nation's infrastructure which provides the foundation for all aspects of life;

(18) failure to invest in the transportation infrastructure, including aviation, has placed the United States in danger of becoming a service-oriented economy, rather than having a strong and independent manufacturing-based economy;

(19) the creation of a national intermodal transportation system is central to the transportation issues of the coming decades

and will create the new wealth of the Nation to provide the funds for the Nation to meet the challenges of the 21st century;

(20) our Nation should devote greater efforts to integrating the aviation system with highway and mass transit facilities providing access to airports;

(21) transportation planning, taking account of commerce and land-use patterns, must be improved at all levels and local officials must have a significant role in transportation decisions affecting their areas;

(22) failure to develop an improved intermodal transportation system for the 1990's and the 21st century will result in continuing the two decade trend of decline in United States competitiveness in the global economy and the accompanying decline in the Nation's standard of living;

(23) the safety of the traveling public is of paramount national importance;

(24) aircraft deicing is an important element of aviation safety and past aircraft incidents suggest that both the Federal Government and private industries should focus on methods to improve aircraft deicing procedures and facilities;

(25) noise associated with the use of our Nation's airports must be reduced and efforts to mitigate noise must be continued;

(26) airports must use the airport noise planning program to ensure that capacity expansion minimizes noise to the surrounding community;

(27) the Nation's air traffic control system must be modernized with the most advanced technology, and the necessary capital equipment must be developed and procured, in order to continue the safe and efficient operation of the national airspace system;

(28) there will need to be a continuing increase in the number of aviation safety inspectors to handle the current and future workload of the air carrier and commuter industry; and

(29) the United States airline industry lost more than $6 billion in 1990 and 1991, the number of air carriers serving the public has declined substantially as a result of the industry's financial distress and the absence of governmental policies to promote competition, and continued financial losses could result in the further loss of air carrier competition and service to the traveling public.

## TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

### SEC. 101. DECLARATION OF POLICY.

(a) NATIONAL TRANSPORTATION POLICY.—Section 502 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201) is amended by adding at the end the following:

"(c) NATIONAL TRANSPORTATION POLICY.—

"(1) It is a goal of the United States to develop a national intermodal transportation system that moves people and goods in an efficient manner. The Nation's future economic direction is dependent on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, and the need to rebuild the Nation's infrastructure.

"(2) United States leadership in the world economy, the expanding wealth of the Nation, the competitiveness of the Nation's industry, the standard of living, and the quality of life are at stake.

"(3) A national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation which moves people and goods in the most efficient manner. By reducing transportation costs, these intermodal systems will enhance United States industry's ability to compete in the global marketplace.

"(4) All forms of transportation, including aviation and other transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development.

"(5) An intermodal transportation system consists of transportation hubs which connect different forms of appropriate transportation and provides users with the most efficient means of transportation and with access to commercial centers, business locations, population centers, and the Nation's vast rural areas, as well as providing links to other forms of transportation and to intercity connections.

"(6) Intermodality and flexibility are paramount issues in the process of developing an integrated system that will obtain the optimum yield of United States resources.

"(7) The United States transportation infrastructure must be reshaped to provide the economic underpinnings for the Nation to compete in the 21st century global economy. The United States can no longer rely on the sheer size of its economy to dominate international economic rivals and must recognize fully that its economy is no longer a separate entity but is part of the global marketplace. The Nation's future economic prosperity depends on its ability to compete in an international marketplace that is teeming with competitors but where a full one-quarter of the Nation's economic activity takes place.

"(8) The United States must make a national commitment to rebuild its infrastructure through development of a national intermodal transportation system. The United States must provide the foundation for its industries to improve productivity and their ability to compete in the global economy with a system that will move people and goods faster in an efficient manner.".

(b) CAPACITY EXPANSION AND NOISE ABATEMENT.—Such section is further amended by adding at the end the following new subsection:

"(d) CAPACITY EXPANSION AND NOISE ABATEMENT.—It is in the public interest to recognize the effects of airport capacity expansion projects on aircraft noise. Efforts to increase capacity through any means can have an impact on surrounding communities. Noncompatible land uses around airports must be reduced and efforts to mitigate noise must be given a high priority.".

### SEC. 102. AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 505(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204(a)) is amended—

(1) by striking "and" following "1991,"; and

(2) by inserting before the period at the end of the second sentence the following: ", $15,966,700,000 for fiscal years ending before October 1, 1993, $18,116,700,000 for fiscal years ending before October 1, 1994, and $20,366,700,000 for fiscal years ending before October 1, 1995".

(b) OBLIGATIONAL AUTHORITY.—Section 505(b)(1) of such Act is amended by striking "1992" and inserting "1995".

### SEC. 103. AIRWAY IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 506(a)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(a)(1)) is amended—

(1) by striking "and" following "1991" and inserting a comma; and

(2) by inserting before the period at the end of the first sentence the following: ", $8,200,000,000 for fiscal years ending before October 1, 1993, $11,100,000,000 for fiscal years ending before October 1, 1994, and $14,000,000,000 for fiscal years ending before October 1, 1995".

(b) CAPITAL INVESTMENT PLAN AUGMENTATION.—Section 506(a)(2) of such Act is amended to read as follows:

"(2) CAPITAL INVESTMENT PLAN AUGMENTATION.—If the Secretary determines that it is necessary to augment or substantially modify elements of the Airway Capital Investment Plan submitted to Congress under section 504 of this title (including a determination that it is necessary to establish more than 23 area control facilities), there is authorized to be appropriated from the Trust Fund for fiscal year 1994 to carry out such augmentation or modification $100,000,000. Amounts appropriated under this paragraph shall remain available until expended.".

(c) OTHER EXPENSES.—

(1) EXTENSION.—Section 506(c)(4) of such Act is amended—

(A) in the paragraph heading by striking "–1992" and inserting "–1995"; and

(B) by striking "and 1992" and inserting ", 1992, 1993, 1994, and 1995".

(2) CONFORMING AMENDMENT.—Section 506(e)(5) of such Act is amended by striking "1992" and inserting "1995".

(d) WEATHER SERVICES.—Section 506(d) of such Act is amended by striking the second sentence and inserting the following new sentence: "Expenditures for the purposes of carrying out this subsection shall be limited to $35,596,000 for fiscal year 1993, $37,800,000 for fiscal year 1994, and $39,000,000 for fiscal year 1995.".

### SEC. 104. FAA OPERATIONS.

Section 106(k) of title 49, United States Code, is amended—

(1) by striking "and" and inserting a comma; and

(2) by inserting before the period at the end the following: ", $4,716,500,000 for fiscal year 1993, $5,100,000,000 for fiscal year 1994, and $5,520,000,000 for fiscal year 1995".

### SEC. 105. LINKAGE WITH PASSENGER FACILITY CHARGES PROGRAM.

Paragraph (4) of section 1113(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513(e)(4)) is amended by striking "under this subsection on or before" and all that follows through the period at the end of such paragraph and inserting the following:

"under this subsection—

"(A) on or before September 30, 1993, if, during fiscal year 1993, the amount available for obligation under section 419 of this Act is less than $38,600,000;

"(B) on or before September 30, 1994, if, during fiscal year 1994, the amount available for obligation under section 419 of this Act is less than $38,600,000; or

"(C) on or before September 30, 1995, if, during fiscal year 1995, the amount available for obligation under section 419 of this Act is less than $38,600,000.

This limitation on the authority to impose a fee shall not apply if the amount available in fiscal years for obligation as described in subparagraph (A), (B), or (C), is less than $38,600,000 as a result of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriations Act. The provisions of this paragraph shall not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues derived from a fee imposed pursuant to an approval made under this subsection by a public agency which has received an approval to impose a fee under this subsection prior to September 30, 1993, in the

case of subparagraph (A), prior to September 30, 1994, in the case of subparagraph (B), and prior to September 30, 1995, in the case of subparagraph (C), regardless of whether such fee is being imposed on the date set forth in such subparagraph.".

**SEC. 106. APPORTIONMENTS.**

(a) INCREASE FOR CARGO HUBS.—Section 507(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(a)(2)) is amended—

(1) by striking "3 percent" and inserting "4 percent"; and

(2) by striking "(but not to exceed $50,000,000)".

(b) LIMITS.—Section 507(b)(1) of such Act is amended by striking "$300,000 nor more than $16,000,000" and inserting "$400,000 nor more than $22,000,000".

(c) PRIMARY AND CARGO SERVICE AIRPORTS.—Section 507(b)(3) of such Act is amended by striking "49.5 percent" each place it appears and inserting "44 percent".

(d) RULES REGARDING CERTAIN ALASKA AIRPORTS.—Section 507(b)(5) of such Act is amended by adding at the end the following new subparagraph:

"(F) INCLUDED AIRPORTS.—For purposes of this paragraph, the airports referred to in subparagraph (A) include those public airports that received scheduled service as of September 3, 1982, but were not apportioned funds in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970 because the airports were not under the control of State or local public agencies.".

**SEC. 107. MILITARY AIRPORTS.**

(a) SET-ASIDE.—Section 508(d)(5) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2207(d)(5)) is amended by inserting after "1992" the following: ", not less than 2.25 percent of the funds made available under section 505 in fiscal year 1993, and not less than 2.5 percent of the funds made available under section 505 in each of fiscal years 1994 and 1995".

(b) DESIGNATION.—Section 508(f)(1) of such Act is amended—

(1) by striking "not more than 8"; and

(2) by striking the second sentence.

(c) CONSTRUCTION OF PARKING LOTS, FUEL FARMS, AND UTILITIES.—

(1) FUNDING.—Section 508(f) of such Act is amended by adding at the end the following new paragraph:

"(6) FUNDING FOR CONSTRUCTION OF PARKING LOTS, FUEL FARMS, AND UTILITIES.—Not to exceed $4,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for fiscal years 1993, 1994, and 1995 may be used in the aggregate by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of airport surface parking lots, fuel farms, and utilities.".

(2) CONFORMING AMENDMENT.—Section 513(c) of such Act is amended by inserting after "this section" the following: "and section 508(f)(6) of this title".

**SEC. 108. AIRPORT NOISE COMPATIBILITY PROGRAM.**

Section 508(d)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2207(d)(2)) is amended—

(1) by striking "10 percent" and inserting "15 percent"; and

(2) by adding at the end the following new sentence: "The 15 percent referred to in the preceding sentence shall be 12.5 percent—

"(A) in the case of fiscal year 1994 if the amount of funds made available under section 505 for fiscal year 1994 is less than $1,935,000,000; and

"(B) in the case of fiscal year 1995 if the amount of funds made available under section 505 for fiscal year 1995 is less than $2,025,000,000.".

**SEC. 109. MAXIMUM OBLIGATION OF THE UNITED STATES.**

Section 512(b)(3) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2211(b)(3)) is amended by striking the period at the end and inserting the following: "; except that, for fiscal year 1993 and thereafter, for grants for the acquisition of land or interests in land, the maximum obligation of the United States may be increased for an airport (other than a primary airport) either by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable project costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.".

**SEC. 110. TERMINAL DEVELOPMENT.**

(a) ALLOWABLE PROJECT COSTS.—Section 513(b)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2212(b)(1)) is amended by adding at the end the following new sentence: "In the case of a commercial service airport which annually has .05 percent or less of the total enplanements in the United States, the Secretary may approve, under the preceding sentence as allowable project costs of a project for airport development at such airport, terminal development in revenue-producing areas and construction, reconstruction, repair, and improvement of nonrevenue-producing parking lots if the sponsor certifies that no project for needed airport development affecting safety, security, or capacity will be deferred by such approval.".

(b) FEDERAL SHARE.—Section 513(b)(5) of such Act is amended by inserting before the period at the end the following: "; except that the United States share of project costs allowable for any project under such paragraph at a commercial service airport which annually has .05 percent or less of the total enplanements in the United States shall be 85 percent".

(c) RETROACTIVE APPLICABILITY.—The amendment made by subsection (a) may be applied to any terminal development which is underway in calendar year 1992 or later.

**SEC. 111. LETTERS OF INTENT.**

Section 513(d)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2212(d)(1)) is amended by adding at the end the following new subparagraph:

"(G) OTHER CONSIDERATIONS.—A letter of intent issued under this paragraph shall not condition the obligation of any funds on the imposition of a passenger facility charge.".

**SEC. 112. AIRPORT DEVELOPMENT DEFINED.**

(a) AIRCRAFT DEICING EQUIPMENT.—Section 503(a)(2)(B) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(2)(B)) is amended—

(1) by striking "or" at the end of clause (v);

(2) by inserting "or" after the semicolon at the end of clause (vi); and

(3) by inserting after clause (vi) the following:

"(vii) aircraft deicing equipment and structures (other than aircraft deicing fluids and storage facilities for such equipment and fluids);".

(b) CONTROL TOWER AND NAVIGATIONAL AIDS RELOCATION; MEETING MANDATES OF CERTAIN FEDERAL LAWS; AIRCRAFT DEICING FACILITIES.—Section 503(a)(2) of such Act 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 a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(E) the relocation, after December 31, 1991, of an air traffic control tower and any navigational aid (including radar) if such relocation is necessary to carry out a project approved by the Secretary under this title;

"(F) any construction, reconstruction, repair, or improvement of an airport (or any purchase of capital equipment for an airport) which is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, and the Federal Water Pollution Control Act with respect to the airport, other than construction or purchase of capital equipment which would primarily benefit a revenue producing area of the airport used by a nonaeronautical business; and

"(G) any acquisition of land for, or work necessary to construct, a pad suitable for deicing aircraft prior to takeoff at a commercial service airport, including construction or reconstruction of paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, and paved access for deicing vehicles and aircraft, but excluding acquisition of aircraft deicing fluids and construction and reconstruction of storage facilities for aircraft deicing equipment and fluids.".

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the cost and the feasibility of maintaining and operating navigational aids (including radar) for a transition period of up to 2 years at airports converting in whole or in part from military airports to civilian commercial or reliever airports.

**SEC. 113. PUBLIC ACCESS AND PARTICIPATION WITH RESPECT TO AIRPORTS.**

(a) PUBLIC ACCESS TO AIRPORT BUDGET.—Section 511(a)(11) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210(a)(11)) is amended by inserting "and a report of the airport budget will be available to the public at reasonable times and places" before the semicolon at the end.

(b) PUBLIC PARTICIPATION WITH RESPECT TO AIRPORT PROJECTS.—Section 509(b)(6)(A) of such Act (49 U.S.C. App. 2208(b)(6)(A)) is amended by inserting "(i)" after "unless" and by striking the period at the end and inserting the following: ", and (ii) the sponsor of the project certifies to the Secretary that the airport management board either has voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.".

**SEC. 114. NATIONAL AIRWAY SYSTEM.**

(a) ELIMINATION OF REPORTING REQUIREMENT.—Section 504(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2203(b)) is amended by striking paragraph (2).

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking "(1)";

(2) by striking "(A)", "(B)", and "(C)" and inserting "(1)", "(2)", and "(3)", respectively; and

(3) by striking "(i)", "(ii)", and "(iii)" and inserting "(A)", "(B)", and "(C)", respectively.

**SEC. 115. DEFINITION OF PASSENGERS ENPLANED.**

Section 503(a)(10) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(10)) is amended by inserting "or Alaska or Hawaii" after "contiguous States".

**SEC. 116. EXTENSION OF STATE BLOCK GRANT PILOT PROGRAM.**

(a) EXTENSION.—Section 534(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. 2227(a)) is amended by striking "1992" and inserting "1996".

(b) PARTICIPATING STATES.—Section 534(b) of such Act is amended—

(1) by striking "3" and inserting "7"; and

(2) by adding at the end the following new sentence: "The 7 States to be selected for participation in the program in fiscal years 1993, 1994, 1995, and 1996 shall include the 3 States selected for the participation in the program in fiscal year 1992 (Illinois, Missouri, and North Carolina).".

**SEC. 117. DISADVANTAGED BUSINESS ENTERPRISE.**

(a) ASSURANCE.—Section 511(a)(17) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210(a)(17)) is amended by inserting "or which provide ground transportation, baggage carts, automobile rentals, or other consumer services" after "or other consumer products".

(b) ADMINISTRATION OF DBE ASSURANCE.—Section 511 of such Act is further amended by adding at the end the following new subsection:

"(h) ADMINISTRATION OF DBE ASSURANCE.—

"(1) MANAGEMENT CONTRACTS.—In administering subsection (a)(17) of this section, an airport owner or operator is authorized to meet the overall percentage goal established under such subsection by including businesses operated through management contracts and subcontracts. The dollar amount of a management contract and subcontract with a DBE firm shall be added to the total of DBE participation in airport concessions and to the base from which the airport's overall percentage goal is calculated. The dollar amount of management contracts and subcontracts with non-DBE firms and the gross revenues of business activities to which management contracts and subcontracts pertain shall not be added to this base.

"(2) PURCHASE OF GOODS AND SERVICES.—Except as provided in subsection (h)(3), an airport owner or operator may meet the overall percentage goal established under subsection (a)(17) of this section by including the purchase from DBEs of goods or services used in businesses conducted on the airport, provided that good faith efforts shall be made by the airport owner or operator and the businesses conducted on the airport to explore all available options to achieve, to the maximum extent practical, compliance with such goal through direct ownership arrangements, including, but not limited to, joint ventures and franchises.

"(3) PROVISION FOR CAR RENTAL FIRMS.—

"(A) In complying with subsection (a)(17) of this section, an airport owner or operator shall include the revenues of car rental firms on the airport in the base from which the overall percentage goal set forth in such subsection is calculated.

"(B) An airport owner or operator may require a car rental firm to meet any requirement imposed under subsection (a)(17) of this section through the purchase or lease of goods or services from DBE's. In the event an airport owner or operator requires the purchase or lease of goods or services from DBE's, a car rental firm shall be permitted to meet such requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern (as defined by the Secretary by regulation) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B)).

"(C) Nothing in this subsection or subsection (a)(17) of this section shall require a car rental firm to change its corporate structure to provide for direct ownership arrangements in order to meet the requirements of such subsection or subsection (a)(17).

"(4) GENERAL PROVISIONS.—

"(A) Nothing in this subsection or subsection (a)(17) shall preempt any State or local law, regulation, or policy enacted by the governing body of an airport owner or operator, or the authority of any State or local government or airport owner or operator to adopt or enforce any law, regulation, or policy relating to DBE's.

"(B) An airport owner or operator shall be permitted to afford opportunities for small business concerns owned and controlled by socially and economically disadvantaged individuals to participate through direct contractual agreement with such concerns.

"(5) EXCLUSION OF AIR CARRIER SERVICES.—Air carriers in providing passenger or freight-carrying services and other businesses that conduct aeronautical activities at an airport shall not be included in the overall percentage goal set forth in subsection (a)(17) of this section for participation of small business concerns at the airport.".

(c) BASIC PROGRAM.—Section 505(d)(2)(A) of such Act (49 U.S.C. App. 2204(d)(2)(A)) is amended by striking "$14,000,000" and inserting "$16,015,000".

(d) REGULATIONS.—Not later than the 180th day following the date of the enactment of this Act, the Secretary of Transportation shall issue regulations to carry out sections 511(a)(17) and 511(h) of the Airport and Airway Improvement Act of 1982, as amended by subsections (a) and (b) of this section, relating to the disadvantaged business enterprise assurance.

**SEC. 118. EXTENSION OF CERTAIN RESTRICTIONS ON CONTRACT AND GRANT AWARDS.**

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—Section 9130 of the Aviation Safety and Capacity Expansion Act of 1990 (49 U.S.C. App. 2226b) is amended by inserting ", section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b))" after "subtitle".

(b) FOREIGN GOVERNMENTS DISCRIMINATING AGAINST U.S. PRODUCTS.—Section 9131 of such Act (49 U.S.C. App. 2226c) is amended by inserting ", section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b))" after "subtitle".

**SEC. 119. ACQUISITION OR CONSTRUCTION OF FACILITIES FOR ADVANCED TRAINING OF MAINTENANCE TECHNICIANS FOR AIR CARRIER AIRCRAFT.**

(a) GRANTS.—The Administrator of the Federal Aviation Administration may make grants to not to exceed 4 vocational technical institutions for the purpose of acquiring or constructing facilities to be used for the advanced training of maintenance technicians for air carrier aircraft.

(b) ELIGIBILITY CRITERIA.—The Administrator may only make a grant under this section to a vocational technical educational institution if such institution has a training curriculum which prepares aircraft maintenance technicians who hold an airframe and power plant certificate issued under subpart D of part 65 of title 14 of the Code of Federal Regulations to maintain, without direct supervision, air carrier aircraft.

(c) LIMITATION ON AMOUNTS OF GRANTS.—The maximum amount of Federal funds which a vocational technical educational institution may receive, in the aggregate, through grants made under this section shall be $5,000,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, from the Airport and Airway Trust Fund, such sums as may be necessary for carrying out this section for fiscal years 1993, 1994, and 1995. Such sums shall remain available until expended.

**SEC. 120. AIR TRAFFIC CONTROLLER STAFFING.**

The Administrator of the Federal Aviation Administration shall develop and submit annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the staffing standards used to determine the number of air traffic controllers needed to operate the air traffic control system of the United States, a 3-year projection of the number of air traffic controllers needed to be employed to operate such system to meet such standards, and a detailed plan for employing such controllers, including projected budget requests.

**SEC. 121. MINIMUM NUMBER OF AIR TRAFFIC CONTROLLERS.**

The Administrator of the Federal Aviation Administration shall hire such additional persons as are necessary to make the number of persons employed in the air traffic control work force of such Administration on September 30, 1993, not less than 18,128.

**SEC. 122. LIMITATION ON PRIVATIZATION OF OPERATION OF CERTAIN AIRPORT CONTROL TOWERS.**

The Administrator of the Federal Aviation Administration shall not enter into any contract on or before September 30, 1994, with a private person for operation of an airport control tower at any airport which in fiscal year 1990 had 5,500 or more air carrier operations and 40,000 or more air taxi operations unless the owner or operator of such airport first agrees, in writing, to the Administrator entering into such contract.

**SEC. 123. EFFECTS OF AIRPORT NOISE.**

(a) STUDY.—The Administrator of the Federal Aviation Administration shall—

(1) analyze the social, economic, and health effects of airport noise on populations within 65, 60, and 55 LDN noise areas to determine the actual level at which noise creates an adverse impact on populations; and

(2) study the effect of single event noise on populations.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act and after providing notice and opportunity for public comment, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the analysis and study conducted under subsection (a).

**SEC. 124. AVIATION SAFETY INSPECTORS.**

The Administrator of the Federal Aviation Administration shall, within authorized levels, increase the employment of aviation safety inspectors so that by the end of fiscal year 1995 the ratio of employed safety inspectors to authorized positions for such inspectors is not less than 95 percent. The Administrator shall ensure that the current backlog

in inspector training is eliminated by the end of fiscal year 1995 and that adequate administrative and clerical support is made available, from appropriations for Federal Aviation Administration operations, to support the inspector work force.

**SEC. 125. AIRCRAFT OPERATIONS IN WINTER CONDITIONS.**

(a) IN GENERAL.—Before November 1, 1992, the Administrator of the Federal Aviation Administration shall require, by regulation, procedures to improve safety of aircraft operations during winter conditions.

(b) FACTORS TO BE CONSIDERED.—In determining procedures to be required under subsection (a), the Administrator shall consider, among other things, aircraft and air traffic control modifications, the availability of different types of deicing fluids (taking into account their efficacy and environmental limitations), the types of deicing equipment available, and the feasibility and desirability of establishing timeframes within which deicing must occur under certain types of inclement weather.

**SEC. 126. VISUAL FLIGHT RULE ROUTES FOR COMPLEX TERMINAL AIRSPACE AREAS.**

Section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)) is amended by adding at the end the following: "In carrying out clause (3), the Administrator shall update and arrange for publication of clearly defined routes for navigating through a complex terminal airspace area, and to and from an airport located within such an area, where the Administrator determines that publication of such routes would promote safety in air navigation. Such routes shall be for the optional use of pilots operating under visual flight rules and shall be developed in consultation with pilots and other users of affected airports.".

**SEC. 127. STUDY ON REFLECTORIZATION OF TAXIWAY AND RUNWAY MARKINGS.**

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine whether the safety benefits derived from the reflectorization of runways and taxiways of all military airfields under Federal Specification TT-B-1325B should be extended to runways and taxiways of public use airports.

(b) REPORT.—Not later than June 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations concerning requirements for upgraded reflectorization of runways and taxiways at public use airports.

**SEC. 128. LANDBANKING AND OPTIONS TO PURCHASE LAND.**

(a) STUDY.—The Secretary of Transportation shall conduct a study on the following types of projects:

(1) LANDBANKING.—The purchase of land for airport development to be carried out more than 5 years after the date of the purchase.

(2) OPTIONS TO PURCHASE.—The purchase of options to purchase land for airport development.

(b) CONTENT.—In conducting the study under subsection (a), the Secretary shall examine the following:

(1) ELIGIBILITY FOR FUNDING.—Whether or not the projects described in paragraphs (1) and (2) of subsection (a) should be eligible for funding under the Airport Improvement Program.

(2) CONDITIONS.—If the projects described in paragraphs (1) and (2) of subsection (a) become eligible for funding under the Airport Improvement Program—

(A) whether or not certain limitations should be imposed on such projects;

(B) whether or not priority should be afforded to the funding of such projects in relation to other airport development projects; and

(C) whether or not certain environmental requirements should be imposed on such projects.

(c) REPORT.—Not later than December 31, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with any appropriate recommendations for legislative and administrative action.

**SEC. 129. LIGHTING SYSTEMS FOR AIRCRAFT OBSTRUCTIONS AND AIRPORT RUNWAYS.**

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the current Federal program for monitoring the installation and operation of lighting systems for aircraft obstructions and airport runways.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the study conducted under this section, together with recommendations on methods to ensure that the best available technologies are utilized in lighting systems described in subsection (a).

**SEC. 130. ECONOMIC BENEFITS OF AIRPORT DEVELOPMENT PROJECTS.**

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the economic benefits of carrying out airport development projects in areas designated as "redevelopment areas" under section 401 of the Public Works and Economic Development Act of 1965.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations on whether or not airport development projects in areas described in subsection (a) should receive priority consideration in the distribution of grants under the Airport Improvement Program.

**SEC. 131. SOUNDPROOFING OF CERTAIN RESIDENTIAL BUILDINGS IN AREAS SURROUNDING AIRPORTS.**

During the 2-year period beginning on the date of the enactment of this Act, the Secretary may make grants under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 for projects to soundproof residential buildings—

(1) if the operator of the airport involved received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;

(2) if the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and

(3) if the Secretary determines that the proposed projects are compatible with the purposes of the Aviation Safety and Noise Abatement Act of 1979.

**SEC. 132. LAREDO INTERNATIONAL AIRPORT, LAREDO, TEXAS.**

Section 313(c)(2)(C) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (101 Stat. 1531) is amended by striking "20 years" and inserting "40 years".

**SEC. 133. STUDY OF SMALL AIRPORT RUNWAY MAINTENANCE.**

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the ability of airports which annually enplane .05 percent or less of total enplanements in the United States to finance the maintenance of runways, aprons, and taxiways constructed under the Airport Improvement Program, whether or not it would be desirable to make maintenance of runways, aprons, and taxiways eligible projects for grants under the Airport Improvement Program, and whether or not the result of making such maintenance eligible projects would be to reduce the long-term costs of airport development.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations.

**SEC. 134. TUCSON STUDY.**

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the current and projected need for air traffic control and related services in the airspace in the vicinity of Tucson, Arizona. In particular the study shall focus upon—

(1) the facilities and personnel necessary to assist general aviation pilots in the vicinity of Tucson and the United States-Mexico border area with services such as weather and traffic advisories;

(2) flight plan filings; and

(3) notification of law enforcement agencies that monitor international air traffic between Arizona and Mexico.

(b) REPORT.—Not later than May 1, 1993, the Administrator of the Federal Aviation Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under subsection (a). The report shall include the Administrator's evaluation of the ability of the consolidation plans of the Federal Aviation Administration to assure no reduction or delay in the delivery of air traffic control and related services to pilots in the vicinity of Tucson.

(c) STATUS.—The Administrator of the Federal Aviation Administration shall not change the status (including reductions in staff, changes in operating hours, changes in jurisdiction, and disconnection of telephone lines) of the Tucson flight service station before the 60th day following the date on which the report required by subsection (b) is submitted.

**SEC. 135. AIR TRAFFIC OVER GRAND CANYON.**

(a) STUDY.—The Administrator of the Federal Aviation Administration, in consultation with the Director of the National Park Service, the State of Arizona, the State of Nevada, the Clark County Department of Aviation, affected Indian tribes, and the general public, shall conduct a study on increased air traffic over Grand Canyon National Park.

(b) REPORT.—The Administrator of the Federal Aviation Administration shall submit to Congress a report on the results of the study conducted under subsection (a). The report shall include the following:

(1) A report on the increase in air traffic over Grand Canyon National Park since 1987.

(2) A forecast of the increase in air traffic over Grand Canyon National Park through 2010.

(3) A report on the carrying capacity of the airspace over Grand Canyon National Park to ensure aviation safety and to meet the requirements established by section 3 of the Act of August 18, 1987 (Public Law 100-91; 101

Stat. 676), including the substantial restoration of natural quiet at the Park.

(4) A plan of action to manage increased air traffic over Grand Canyon National Park to ensure aviation safety and to meet the requirements established by such section 3 of the Act of August 18, 1987, including any measures to encourage or require the use of quiet aircraft technology by commercial air tour operators.

## TITLE II—FEDERAL AVIATION ACT AMENDMENTS

### SEC. 201. PROCUREMENT REFORM.

(a) IN GENERAL.—Section 303 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1344) is amended by adding at the end the following new subsections:

"(g) LIMITED SOURCES OF PROCUREMENT.—The Administrator shall have the same authority as the Administrator would have under section 2304(c)(1) of title 10, United States Code, if the Federal Aviation Administration were an agency listed under section 2303(a) of title 10, United States Code.

"(h) CONTRACT TOWER PROGRAM.—The Administrator may enter into a contract, on a sole source basis, with a State or political subdivision thereof for the purpose of permitting such State or political subdivision to operate an airport traffic control tower classified as a level I visual flight rules tower by the Administrator if the Administrator determines that the State or political subdivision has the capability to comply with the requirements of this subsection. Any such contract shall require that the State or political subdivision comply with all applicable safety regulations in its operation of the facility and with applicable competition requirements in the subcontracting of any work to be performed under the contract.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 303 is amended by adding at the end the following:

"(g) Limited sources of procurement.

"(h) Contract tower program.".

### SEC. 202. AVIATION SECURITY TRAINING.

Section 316(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1357(c)) is amended by inserting "(1)" after "(c)" and by adding at the end the following new paragraph:

"(2) REIMBURSEMENT FOR CERTAIN EXPENSES.—At the discretion of the Administrator, reimbursement may be made for travel, transportation, and subsistence expenses for the security training of non-Federal domestic and foreign security personnel whose services will contribute significantly to carrying out civil aviation security programs under this section. To the extent practicable, air travel reimbursed under this paragraph shall be conducted on United States air carriers.".

### SEC. 203. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE.

(a) NOTICE OF CONSTRUCTION.—Section 1101(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1501(a)) is amended—

(1) by inserting after "of the construction or alteration," the following: "or the establishment or expansion,";

(2) by inserting after "or of the proposed construction or alteration," the following: "or of the proposed establishment or expansion,"; and

(3) by inserting "or sanitary landfill" after "structure".

(b) LANDFILL HAZARD STUDY AND REPORT.—

(1) REQUIREMENTS.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study to determine whether a municipal solid waste facility located within a 5-mile radius of the end of a runway may have the potential for attracting or sustaining bird movements (from feeding, watering, or roosting in the area) that may pose a hazard across the runways or approach and departure patterns of aircraft.

(2) REPORT.—Not later than December 31, 1993, the Secretary of Transportation shall transmit to Congress, after first having provided an opportunity for public comment, a report on the results of the study conducted under paragraph (1), together with an assessment of the threat posed to aviation safety by the location of solid waste facilities near airport runways. The report shall include recommendations concerning the construction of new solid waste facilities and the expansion of existing facilities within a 5-mile radius of an airport runway.

### SEC. 204. NATIONAL COMMISSION TO PROMOTE A STRONG AND COMPETITIVE AIRLINE INDUSTRY.

(a) FINDINGS.—Congress finds the following:

(1) The Nation's airlines must be part of an intermodal transportation system that will move people and goods in the fastest, most efficient manner.

(2) The Nation's airlines provide our connections with the global economy. A strong airline industry is essential to our Nation's ability to compete in the international marketplace.

(3) The Nation's airlines are in a state of financial distress, having lost more than $6,000,000,000 in 1990 and 1991. These losses threaten the ability of our airlines to accommodate the growing aviation traffic demands of the 1990's which threaten to undermine our Nation's ability to compete in the global economy.

(4) Because of the airline industry's financial distress and the absence of government policies to promote competition, there has been a precipitous decline in the number of major airlines. Of the 22 airlines which entered the industry following airline deregulation, only 2 are now operating. The rest have either gone out of business or merged with other carriers.

(5) Concentration in the airline industry has advanced rapidly in the past few years. The top 4 major airlines now control 67 percent of aviation traffic and the top 7 airlines now control 91 percent of aviation traffic. Three major airlines, carrying 19 percent of aviation traffic, are in chapter 11 bankruptcy and their survival is in doubt.

(6) The continued success of a deregulated airline system requires the spur of effective actual and potential competition to force airlines to provide high quality service at the lowest possible fares.

(7) Further reductions in the number of major airlines may leave the industry without sufficient competition to ensure a continuation of the benefits consumers have received under airline deregulation.

(b) ESTABLISHMENT.—There is established a commission to be known as the "National Commission to Ensure a Strong Competitive Airline Industry" (hereinafter in this section referred to as the "Commission").

(c) FUNCTIONS.—

(1) INVESTIGATION AND STUDY.—The Commission shall make a complete investigation and study of the financial condition of the airline industry, the adequacy of competition in the airline industry, and legal impediments to a financially strong and competitive airline industry.

(2) POLICY RECOMMENDATIONS.—Based on the results of the investigation and study to be conducted under paragraph (1), the Commission shall recommend to the President and Congress those policies which need to be adopted to—

(A) achieve the national goal of a strong and competitive airline system which will facilitate the ability of the Nation to compete in the global economy;

(B) provide adequate levels of competition and service at reasonable fares in cities of all sizes;

(C) retard the flow of United States air carrier bankruptcies and accompanying loss of jobs for United States citizens;

(D) provide a stable work environment for airline industry employees; and

(E) continue to reduce noise for citizens around airports without damaging the economic or competitive positions of the air carriers.

(3) CONSIDERATION OF AIRCRAFT NOISE ABATEMENT.—In carrying out the study and investigation under paragraph (1), the Commission shall take into account aircraft noise abatement, a priority established by Congress by enactment of the Airport Noise and Capacity Act of 1990.

(d) SPECIFIC MATTERS TO BE ADDRESSED.—The Commission shall specifically investigate and study under subsection (c)(1) the following:

(1) FINANCIAL CONDITION OF AIRLINE INDUSTRY.—The current financial condition of the airline industry and how the industry's financial condition is likely to change over the next 5 years, including—

(A) the profits or losses likely to be achieved by the airline industry over the next 5 years;

(B) whether or not any profits realized will be adequate to permit airlines to acquire the capital equipment necessary to meet the demand of the traveling public in a safe and efficient manner, while complying with environmental regulations; and

(C) whether or not any major airlines are likely to fail or sell major assets in order to survive.

(2) ADEQUACY OF COMPETITION.—The current state of competition in the airline industry, how the structure of airline industry competition is likely to change over the next 5 years, and whether or not the expected level of competition will be sufficient to continue the consumer benefits of airline deregulation.

(3) LEGAL IMPEDIMENTS TO A FINANCIALLY STRONG AND COMPETITIVE AIRLINE INDUSTRY.—Whether or not the Federal Government should take any legislative or administrative actions to improve the financial conditions of the airline industry or to enhance airline competition, including whether or not any changes are needed in the legal and administrative policies which govern—

(A) the initial award and the transfer of international airline routes;

(B) the allocation of slots at high density airports;

(C) the allocation of gates, particularly at airports dominated by 1 or a limited number of airlines;

(D) frequent flier programs;

(E) airline computer reservations systems;

(F) the rights of foreign investors to invest in United States airlines;

(G) the taxes and user fees imposed on United States airlines;

(H) the regulatory responsibilities imposed on United States airlines;

(I) the bankruptcy laws of the United States and related fitness rules administered by the Department of Transportation as they apply to airlines; and

(J) the obligations of failing airlines to meet pension obligations.

(4) INTERNATIONAL AVIATION POLICY.—Whether or not the policies and strategies followed by the United States in international aviation are promoting the ability of United States airlines to achieve long-term competitive success in international markets, including—

(A) the Government's general negotiating policy;

(B) the desirability of multilateral rather than bilateral negotiations;

(C) whether or not foreign countries have developed the necessary infrastructure of airports and airways to enable United States airlines to provide the service needed to meet the demand for aviation service between the United States and such countries;

(D) the rights granted foreign airlines to provide service in United States domestic markets ("cabotage"); and

(E) the rights granted foreign investors to invest in United States airlines.

(5) ASSESSMENT OF AIRCRAFT MANUFACTURING INDUSTRY.—The state of the United States aircraft manufacturing industry and make recommendations to the President and Congress concerning policies that will help foster a healthy, competitive United States aircraft manufacturing industry.

(6) STUDY OF INCENTIVES FOR EXPEDITED FLEET CONVERSION.—The possibility of long-term loan guarantees and tax incentives for air carriers to expedite the conversion of the commercial airline fleet from Stage 2 to Stage 3 aircraft in advance of the deadlines established by the Airport Noise and Capacity Act of 1990.

(e) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 7 members as follows:

(A) 1 member appointed by the President.

(B) 3 members appointed by the Speaker of the House of Representatives.

(C) 3 members appointed by the majority leader of the Senate.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in transportation policy (including representatives of Federal, State, and local governments and other public authorities owning or operating airports) and organizations representing airlines, passengers, shippers, airline employees, aircraft manufacturers, general aviation, and the financial community.

(B) SECTORS REPRESENTED.—Members appointed pursuant to paragraph (1) shall be appointed in a manner such that the interests of both large hub airports and small airports with commercial air service will be taken into consideration. One member of the Commission shall be a citizen representing a consensus among citizen noise groups or noise affected municipalities.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(f) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States 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 section.

(h) 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 section.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (c)(2).

(k) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (j). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

## TITLE III—RESEARCH, ENGINEERING, AND DEVELOPMENT

### SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1992".

### SEC. 302. AVIATION RESEARCH AUTHORIZATION OF APPROPRIATIONS.

Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by striking subparagraph (A) and all that follows and inserting in lieu thereof the following:

"(A) for fiscal year 1993—

"(i) $14,700,000 solely for management and analysis projects and activities;

"(ii) $87,000,000 solely for capacity and air traffic management technology projects and activities;

"(iii) $28,000,000 solely for communications, navigation, and surveillance projects and activities;

"(iv) $7,700,000 solely for weather projects and activities;

"(v) $6,800,000 solely for airport technology projects and activities;

"(vi) $44,000,000 solely for aircraft safety technology projects and activities;

"(vii) $41,100,000 solely for system security technology projects and activities;

"(viii) $31,000,000 solely for human factors and aviation medicine projects and activities;

"(ix) $4,500,000 for environment and energy projects and activities; and

"(x) $5,200,000 for innovative/cooperative research projects and activities; and

"(B) for fiscal year 1994, $297,000,000.

Not less than 15 percent of the amount appropriated pursuant to this paragraph shall be for long-term research projects, and not less than 3 percent of the amount appropriated under this paragraph shall be available to the Administrator for making grants under section 312(g) of the Federal Aviation Act of 1958.".

### SEC. 303. DEICING STUDY.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall report to Congress on the feasibility of requiring commercial airports and commercial airlines to employ portable equipment to deice commercial aircraft immediately prior to takeoff by placing deicing equipment close to the departure end of the active runway. In addition, the Secretary shall undertake research to develop new techniques and to develop more efficient fluids and technologies for deicing.

### SEC. 304. AIRCRAFT NOISE RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a research program to develop new technologies for quieter subsonic jet aircraft engines and airframes.

(b) GOAL.—The goal of the research program established by subsection (a) is to develop by the year 2000 technologies for subsonic jet aircraft engines and airframes which would permit a subsonic jet aircraft to operate at reduced noise levels.

(c) PARTICIPATION.—In carrying out the program established by subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of representatives of the aviation industry and academia.

(d) REPORT TO CONGRESS.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress, on an annual basis during the term of the program established by subsection (a), a report on the progress being made under the program toward meeting the goal described in subsection (b).

### SEC. 305. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this title, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this title to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Secretary of Transportation, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

## TITLE IV—AVIATION INSURANCE

**SEC. 401. INSURANCE FOR DEPARTMENTS AND AGENCIES OF THE UNITED STATES.**

(a) IN GENERAL.—Section 1304(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1534(a)) is amended—

(1) by inserting after "under this title" the following: ", including insurance to cover any risk from the operation of an aircraft while such aircraft is engaged in intrastate, interstate, or overseas air commerce"; and

(2) by adding at the end the following new sentence: "In addition, such department or agency may, with the approval of the President, procure such insurance to cover any risk arising from the provision of goods or services directly related to and necessary for an operation of an aircraft covered by insurance procured under the preceding sentence if such operation is in the performance of a contract of such department or agency or is for the purpose of transporting military forces or materiel on behalf of the United States pursuant to an agreement between the United States and a foreign government.".

(b) CONFORMING AMENDMENT.—Section 1302(a)(3) of such Act (49 U.S.C. App. 1532(a)(3)) is amended by striking "Insurance" and inserting "Subject to section 1304(a), insurance".

**SEC. 402. EXTENSION OF PROGRAM.**

Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1542) is amended by striking "1992" and inserting "1997".

**SEC. 403. ADMINISTRATION OF AVIATION INSURANCE PROGRAM.**

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958 during the Persian Gulf conflict for the purpose of determining methods of improving the efficiency of the administration of such program by reducing the paperwork and time period required for provision of insurance under such program.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the review conducted under subsection (a), together with any recommendations of the Comptroller General for improving the efficiency of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958.

**SEC. 404. CONTINUATION OF AVIATION INSURANCE LAWS.**

Notwithstanding any other provision of law, the provisions of title XIII of the Federal Aviation Act of 1958 and all insurance policies issued by the Secretary of Transportation under such title, as in effect on September 30, 1992, shall be treated as having continued in effect until the date of the enactment of this Act.

## TITLE V—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND

**SEC. 501. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.**

Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 1992" and inserting "October 1, 1995", and

(2) by striking in subparagraph (A) "(as such Acts were in effect on the date of the enactment of the Aviation Safety and Capacity Expansion Act of 1990)" and inserting "(as such Acts were in effect on the date of the enactment of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992)".

**SEC. 502. CLARIFICATION OF TRUST FUND REVENUES.**

(a) IN GENERAL.—Paragraph (1) of section 9502(e) of the Internal Revenue Code of 1986 (relating to special rules for transfers into trust fund) is amended to read as follows:

"(1) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 11213 of the Revenue Reconciliation Act of 1990 on the date of the enactment of such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

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

Mr. Speaker, in 1958, civil aviation passed a milestone. It became in that year the Nation's leading mode of transportation, surpassing both rail and buses.

By January 1, 1990, aviation had passed another milestone: Domestic air travelers, during 1989, were forced to endure 117 million hours of delay, costing the economy $5 billion.

Civil aviation in America stood at an infrastructure capacity crossroads.

O'Hare Airport had earned the dubious distinction of being the first airport in the Nation to suffer 100,000 hours of delay. Closing in on O'Hare's honors were airports at Denver and Atlanta.

Twenty-one other airports had accumulated up to 50,000 hours of delay each, with 18 others in line to join them.

Airlines told the Aviation Subcommittee that if delay could be reduced just 5 hours a day, each carrier could save $80,000 a day.

There were two fixes available for this capacity-congestion problem: First, to expand the physical capacity of airport runways, taxiways, and parking aprons, and second, to modernize the air traffic control and navigation system technology. Both would be expensive, but both would return enormous benefits, an estimated $90 billion in savings and benefits to air travelers and air carriers over the decade of the 1990's.

The investments and capacity in air traffic technology would also keep America at the leading edge of aviation science and also the preeminent competitor worldwide in aviation technology.

Our Subcommittee on Aviation did not shrink from the challenge. We tackled the responsibility of answering these urgent needs by crafting legislation, enacted into law later that year, to provide financing of airport capacity improvements totaling $50 billion over the balance of the decade, and $25 billion in air traffic and weather and navigation technology advances into the year 2000.

The bill that the gentleman from Pennsylvania [Mr. CLINGER] and I bring to the floor tonight extends those authorizations for an additional 3 years, with some fine tuning and enhancement based upon the experience of the last 2 years.

□ 2230

Fundamentally, Mr. Speaker, this is the same bill, H.R. 4691, which already passed the House by a vote of 410 to 2 on May 19, earlier this year. We bring it up tonight, I would say, in the nature of a conference report incorporating in to this bill important provisions of a companion bill pending in the Senate. Through this procedure we hope to expedite final action in both bodies on this legislation which is so important to economic growth and improvement of aviation which is a $600 billion sector of our Nation's economy.

Mr. Speaker, I include for the RECORD a summary of the key provisions of this bill.

MAJOR PROVISIONS OF H.R. 6093

1. Authorizes funding of $30 billion for fiscal years 1993–1995 for the Airport Improvement Program, the FAA's Facilities and Equipment Program, FAA Operations and FAA Research and Development. Draws down the surplus in the Airport and Airway Trust Fund by about $1.5 billion.

2. Continues and expands the program for federal assistance for the conversion of former military airports to civil use.

3. Expands the program for assistance for the development of terminals at small airports.

4. Provides funding for airport compliance with federal environmental legislation.

5. Provides funding for structures and equipment for aircraft de-icing.

6. Establishes minimum staffing levels for FAA aircraft inspectors and air traffic controllers.

7. Extends and expands the state block grant program for development of small airports.

8. Reforms FAA procurement procedures.

9. Establishes a commission to study the financial crisis of the airlines.

10. Renews the Aviation War Risk Insurance Program.

I would like to take this opportunity to thank my colleague, the gentleman from Pennsylvania [Mr. CLINGER], and the ranking member of the Aviation Subcommittee for his diligent work and hard effort that he has given from

the outset of the scenario I described a moment ago. His thoughtful suggestions, his hard work, and marshalling the arguments and bringing together the people that had made possible the original legislation in tonight's version have been invaluable. He is a thoughtful, and constructive and productive Member of this body, but particularly this subcommittee has mastered the issues of aviation, and it is such a delight to be able to work with the gentleman from Pennsylvania [Mr. CLINGER].

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

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

Mr. Speaker, I, first of all, want to express my thanks for the very kind words of my chairman who has been an enormously effective leader in the field of aviation for so many years and who has been instrumental in bringing this bill to the floor tonight, and it is important that this bill be brought to the floor tonight because we are perilously close, Mr. Speaker, to aborting a program that really has promise of addressing the recessionary problems that we are facing in this country. We are risking the loss of an enormous number of jobs if, in fact, the airport improvement program is allowed to be aborted or stultified at this particular point in time.

So, Mr. Speaker, I commend my chairman because he has recognized the importance of seeing this program reauthorized tonight, and of bringing this bill to the floor and, in effect, putting the ball in the court of the other body to act on this program before this body and the Congress as a whole adjourns sine die within the next 2 days.

I cannot believe that we, as responsible legislators, would really allow this program to terminate, or at least come to a temporary end, and I am confident that that will not be the case. But if it is not, it will clearly be largely the result of Chairman OBERSTAR's diligence and persistence in pursuing this and pushing us to the point at 10:30 at night to get this bill passed and to move it to the other body and, hopefully, have them act on it in an expeditious way.

Mr. Speaker, the airport improvement program is an entitlement program that disburses money, as we know, on a formula basis to commercial service airlines around the country. The funds are used to build and maintain our Nation's airport infrastructure such as runways, taxiways, terminal buildings, navigation equipment, and the like.

The program is fundamental to our air commerce industry. For fiscal year 1992, $1.9 billion was obligated from the aviation trust fund for AIP. Yesterday, October 1, marked the beginning of the new Federal fiscal year. On that date authorization for the AIP Program expired. Every commercial service airport in the country now faces really extreme financial distress unless Congress passes legislation reauthorizing the program so that the flow of funds is not seriously jeopardized any longer than it need be.

Literally tens of thousands of jobs are at stake, Mr. Speaker, if this program is not renewed. Airports are going to begin shutting down ongoing construction programs and laying off permanent employees. The AIP program represents an important source of funding to help sustain important airport operation and development.

This House, as my chairman has indicated, has been diligent about meeting its legislative obligations, acting on this very important piece of legislation some months ago. The Committee on Public Works and Transportation did report out a reauthorization bill to the House on April 8, and on May 19 the House, as the gentleman from Minnesota [Mr. OBERSTAR] indicated, passed this bill by an overwhelming margin of 410 to 2. Sadly, as has been reported, the other body has thus far failed to act on this legislation.

So, we stand here tonight, Mr. Speaker, to ask Members to favorably consider this legislation to reauthorize the airport improvement program under suspension of the rules, a procedure that we would not normally want to pursue in this area because this is an important program.

The bill before us tonight, H.R. 6093, contains many of the same provisions as the gentleman from Minnesota [Mr. OBERSTAR] has indicated of H.R. 4691. It also includes provisions from the companion Senate bill, S. 2642, not in conflict with the House bill, and I would just stress that we have tried to go the extra mile. We have gone, we think, more than halfway in addressing the interests of the other body and including in this, as the gentleman from Minnesota [Mr. OBERSTAR] indicated, hopefully a conference report bill that we are introducing tonight.

We have gone more than halfway to try to accommodate the interests of the other body by including those provisions out of their bill in this bill, and we hope that this will overcome what we have perceived as some intransigence on their part to deal with this very important legislation. We are compelled to take this measure through the House again in an effort to salvage, and really that is what we are about tonight. We are trying to salvage the airport improvement program, frankly because of the inaction of the other body in this regard.

So, I support this bill very, very strongly. It is vital to our air commerce industry. I ask all Members to support the bill as well.

Mr. OBERSTAR. Mr. Speaker, I would like to express my very deep appreciation to the staff on both sides of our subcommittee for their diligent work on this ultima aura that, as the gentleman from Pennsylvania [Mr. CLINGER] said, is so vital to the continuity of aviation in our country.

Mr. Speaker, I wish to clarify that Section 511(h)(2) of the Airport and Airway Improvement Act of 1982 (AAIA), as amended, does not apply to car rental firms doing business at an airport for the purposes of determining compliance with any requirement imposed pursuant to section 511(a)(17) of AAIA. Administration of DBE assurance for car rental firms shall be governed by section 511(h)(3) of AAIA, as amended.

In addition, I note that Section 511(h)(3)(C) of AAIA, as amended, provides that nothing in the law on DBE assurance "shall require a car rental firm to change its corporate structure to provide for direct ownership arrangements." For example, a car rental firm is not required, but is permitted, by the DBE assurance sections 511(a)(17) and 511(h) of the AAIA, as amended, to transfer corporate assets or engage in joint ventures, partnerships or subleases.

Mr. ROE. Mr. Speaker, H.R. 6093 is absolutely essential legislation for our Nation's aviation transportation system. America needs jobs and this bill means productive, real jobs.

I applaud the efforts of Subcommittee Chairman JIM OBERSTAR of Minnesota, and ranking Republican members JOHN PAUL HAMMERSCHIMDT of Arkansas and BILL CLINGER of Pennsylvania for their diligence and continuing efforts to ensure that this important legislation becomes law.

The bill is very similar to H.R. 4691, the Airport and Airway Safety, Capacity, Noise Improvement, and Inermodal Transportation Act of 1992, which passed the House last may on a 410 to 2 vote.

We are bringing this bill to the House floor again with minor adjustments based on the Senate companion measure. The Senate committee has reported a bill, but has yet to get it cleared for floor action.

We are using this strategy because it is absolutely critical that we enact this aviation authorization bill this year. Our Nation's aviation system is too important to our economy to allow the authorization to expire.

In this bill, we take the major step of bringing the aviation system into the intermodal transportation system we created last year. The continued development and expansion of the intermodal transportation system, including aviation, is essential for our Nation's ability to compete in the global economy of the 21st century.

The bill authorizes 3 years of funds for grants for the upgrading of our Nation's airport modernization of the air traffic control system, the operational expenses of Federal Aviation Administration, and aeronautical research and development.

The bill authorizes funding of more than $30 billion to improve the safety and capacity of our aviation infrastructure. It is estimated that the Airport Grant Program established by the bill will create or sustain approximately 100,000 jobs.

Events of recent years have caused a serious and deep concern on the committee about the condition and future of our Nation's airlines. This bill establishes a commission to study the financial condition of the airline industry, the adequacy of competition, and the impediments to a financially strong and competitive airline industry.

We must take the steps necessary to ensure that our Nation's airlines remain strong and competitive. We must not stay idle while one airline after another disappears from the skies.

The bill is vital to our Nation's transportation system and our economy. A vote for this bill is a vote for jobs.

I urge passage of H.R. 6093, and ask unanimous consent to revise and extend my remarks.

Mr. HAMMERSCHMIDT. Mr. Speaker, last May, this body passed an aviation reauthorization bill, H.R. 4691. That bill provided funding of the airport improvement and other aviation programs. It also made some legislative changes to those programs to help improve both large and small airports and to make the aviation system safer for everyone to use.

This bill was developed after extensive hearings and lengthy markups in subcommittee and committee. It was brought to the floor in May under an open rule. As I said at that time, Chairmen ROE and OBERSTAR, as well as the ranking member, Mr. CLINGER, are to be commended for their hard work in developing this legislative package.

Unfortunately, that bill is now stalled in the other body. A bill, S. 2642, has been reported out of committee. Unfortunately, they have been unable or unwilling to bring it to the floor.

If an aviation reauthorization bill is not passed, the FAA will be unable to make grants for airport improvements. Taxes that passengers have already paid will sit in the trust fund unused. Our efforts to improve airport infrastructure will grind to a halt. But most importantly, jobs will be lost. With the economic problems facing us now, that is unconscionable.

Therefore, in order to try to salvage the Airport Improvement Program, we have combined the best elements of the House and Senate bills. That is the legislation we bring before the House today.

It contains most of the provisions in the bill that was passed by the House last May. It also contains most of the provisions that were reported by the Senate committee in August. Where there was a conflict between the two bills, we did our best to resolve the differences fairly to both bodies.

For example, the House bill was a 2-year authorization and the Senate bill was for 3 years. In that case, we adopted the Senate's approach. In other provisions, such as those benefiting small airports and cargo hubs, we adopted the House approach.

Mr. Speaker, I believe the bill before us now is a fair and reasonable compromise. Hopefully, if we pass it now, the Senate can soon do the same and we will have ensured that important airport improvements will continue to move forward.

Mr. OBERSTAR. Mr. Speaker, I have no further requests for time.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLTER). The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 6093 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. OBERSTAR. 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 just passed.

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

There was no objection.

## AUTHORIZING PRESENTATION OF NATIVE AMERICAN INDIAN PROGRAM ON THE CAPITOL GROUNDS

Mr. SAVAGE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 367) authorizing the presentation of a program on the Capitol grounds.

The Clerk read as follows:

H. CON. RES. 367

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. PROGRAM ON THE CAPITOL GROUNDS.**

On October 12, 1992, the Morning Star Foundation and the 1992 Alliance (in this resolution referred to as the "non-Federal sponsor"), may present on the Capitol grounds a program known as the "Native Voices: 500 Years After".

**SEC. 2. REQUIREMENT FOR WRITTEN AGREEMENT.**

The non-Federal sponsor may construct and use structures and equipment on the Capitol grounds, and otherwise make arrangements for presentation of the program, only in accordance with a written agreement between the non-Federal sponsor and the Architect of the Capitol.

**SEC. 3. CONDITIONS.**

The program shall be carried out in accordance with such conditions as the Architect of the Capitol and the Capitol Police Board may prescribe. Such conditions, to be included in the agreement under section 2, shall include the following:

(1) CAPITOL GROUNDS.—Only that portion of the Capitol grounds comprising the upper Senate park may be used for the program.

(2) ADMISSION.—The program shall be open for admission to the general public without charge.

(3) EXPENSES AND LIABILITIES.—The non-Federal sponsor shall assume full responsibility for all expenses incident to activities associated with the program and shall indemnify, hold harmless, and defend the United States against any loss, damage, claim, or other liability incident to such activities.

(4) LIMITATION ON REPRESENTATIONS.—The non-Federal sponsor shall ensure that no person who supports presentation of the program by contributing amounts or products to the non-Federal sponsor will represent, either directly or indirectly, that such support in any way constitutes approval or endorsement by the Federal Government of such person or any product or service offered by such person.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. Savage] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognized the gentleman from Illinois [Mr. SAVAGE].

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

On October 12 of this year, Mr. Speaker, the Morning Star Foundation and the 1992 Alliance will present a program on the Capitol Grounds. This program, known as Native Voices 500 Years After, will provide an excellent educational opportunity for all Americans to be enriched by the culture, tradition, and ceremonies of the indigenous people of what is now the United States of America. Thus it is especially appropriate that this program take place on October 12, 1992, the 500th anniversary of the voyage of Christopher Columbus whose wake was poisoned with barbaric African slavery and Indian genocide.

□ 2240

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

Mr. Speaker, I am filling in for the gentleman from Oklahoma [Mr. INHOFE], the ranking member on the Committee on Public Buildings and Grounds, who was unable to be with us this evening.

Mr. Speaker, I rise in support of House Concurrent Resolution 367, which will authorize the Morning Star Foundation and the 1992 Alliance to sponsor a program entitled Native Voices: 500 Years After, on the Grounds of the Capitol on October 12, 1992.

This event will be an opportunity for all Americans to learn of the important contributions made by Native Americans. As we celebrate the 500th anniversary of the arrival of Christopher Columbus to the Americas, it is most appropriate that we include in our observances the role played by Native Americans in the history of our country.

Given that all the necessary requirements of the Architect of the Capitol have been met regarding this event, I support House Concurrent Resolution 367 and urge my colleagues to do likewise.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAVAGE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

motion offered by the gentleman from Illinois [Mr. SAVAGE] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 367.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SAVAGE. 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 House Concurrent Resolution 367.

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

There was no objection.

## PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965 AMENDMENTS

Mr. KOLTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4157) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

The Clerk read as follows.

H.R. 4157

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

### TITLE I—NATIONAL DEVELOPMENT INVESTMENT

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Public Works and Economic Development Act Amendments of 1992".

**SEC. 102. STATEMENT OF PURPOSE.**

Section 2 of the Public Works and Economic Development Act of 1965 is amended by adding at the end the following:

"Congress further declares that changing national and global economies have created new problems and challenges for the Nation; that between 1982 and 1992 the United States has become a debtor rather than a creditor nation and has been running a trade deficit; that United States export of industrial and manufacturing jobs to other nations has reached an alarming level; and that, therefore, the Federal Government, recognizing that the private sector remains the ultimate generator of employment and economic growth, should promote balanced national growth and economic development by providing Federal aid to overcome infrastructure neglect in distressed areas, to encourage private capital investment, business stability, and expansion by helping the Nation's industrial and commercial resources become more competitive in national and international markets.".

**SEC. 103. AMENDMENT TO TITLES I THROUGH VII OF PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.**

The Public Works and Economic Development Act of 1965 is amended by striking titles I through VII and inserting the following:

### "TITLE I—DEVELOPMENT INVESTMENT ASSISTANCE

**"SEC. 101. DEVELOPMENT INVESTMENT ASSISTANCE.**

"(a) GRANTS.—Upon application of an applicant qualifying under section 102 and subject to the provisions of this title, the Secretary is authorized to make a grant to such applicant for one or more of the following:

"(1) CONSTRUCTING AND IMPROVING PUBLIC FACILITIES.—Construction, repair, rehabilitation, and improvement of public facilities, including demolition of existing structures and other site preparation measures, and the acquisition of land and other public works improvements to encourage and support private development.

"(2) REVOLVING LOAN FUNDS.—Establishment of revolving loan funds to promote establishment and growth of small businesses and to retain firms and entrepreneurs which contribute to the creation, retention, and expansion of private sector jobs.

"(3) EMPLOYEE STOCK OWNERSHIP PLANS.—Establishment of revolving loan funds to promote establishment of qualified employee ownership organizations which prevent economic dislocation, facilitate economic adjustment, or contribute to economic diversification and long-term economic vitality.

"(b) TECHNICAL ASSISTANCE.—Upon application of an applicant qualifying under section 102 and subject to the provisions of this title, the Secretary may provide technical assistance for improving and enhancing economic development.

**"SEC. 102. QUALIFYING APPLICANTS AND LIMITATIONS ON LOCATIONS OF PROJECTS.**

"(a) APPLICANTS FOR DISTRESSED LOCAL GOVERNMENTS.—The following entities may apply for assistance under section 101 for projects and activities to be carried out in the jurisdictional area of a unit of local government which meets the requirements of section 104:

"(1) STATE GOVERNMENT.—The State in which the unit of local government is located may apply if—

"(A) such unit has a population of less than 50,000; and

"(B) such unit is located outside the boundaries of an economic development district.

"(2) LOCAL GOVERNMENT.—The unit of local government may apply; except that—

"(A) in any case in which the unit of local government has a population of less than 50,000 and is located outside the boundaries of an economic development district, such unit must consult the State in the preparation of the grant application; and

"(B) in any case in which the unit of local government is located within the boundaries of an economic development district, such unit must consult such district in the preparation of the grant application.

"(3) ECONOMIC DEVELOPMENT DISTRICT.—The economic development district in which the unit of local government is located may apply.

"(4) ECONOMIC DEVELOPMENT ORGANIZATION.—A private or public nonprofit organization established for economic development purposes and representing an area within the jurisdictional area of the unit of local government may apply if—

"(A) such unit has a population of 50,000 or more;

"(B) such unit is located outside the boundaries of an economic development district; and

"(C) the grant application has been approved by such unit.

"(b) APPLICATIONS FOR INDIAN LANDS.—An Indian tribe may apply for assistance under section 101 for projects and activities to be carried out on lands owned by, or held in trust for, such tribe if such lands meet the requirements of section 104.

"(c) APPLICATIONS FOR POCKETS OF POVERTY.—The following entities may apply for assistance under section 101 for projects and activities to be carried out in an area which meets the requirements of section 104 and is located in the jurisdictional area of a unit of local government which has a population of 50,000 or more and does not meet such requirements:

"(1) LOCAL GOVERNMENT.—The unit of local government may apply; except that in any case in which the unit of local government is located within the boundaries of an economic development district, such unit must consult such district in the preparation of the grant application.

"(2) DEVELOPMENT ORGANIZATION AS APPLICANT.—A private or public nonprofit organization established for economic development purposes and representing the area meeting the requirements of section 104 may apply if such organization consults the unit of local government in the preparation of the grant application.

**"SEC. 103. APPLICATION FOR GRANT.**

"(a) CONTENTS.—An application for assistance under this title shall include, but need not be limited to—

"(1) a certification that the area over which the applicant has jurisdiction meets the requirements of section 104; except that—

"(A) in any case in which the applicant is a State, economic development district, or an organization described in section 102(a)(4), the certification must be for the area over which the concerned unit of local government has jurisdiction;

"(B) in any case in which the applicant is an Indian tribe, the certification must be for lands owned by, or held in trust for, such Indian tribe; and

"(C) in any case in which the applicant is an organization described in section 102(c)(2), the certification must be for the area such organization represents;

"(2) a certification relative to the performance of any responsibilities which the Secretary has agreed to accept under section 306; and

"(3) a development investment strategy prepared in accordance with section 105.

"(b) FACTORS TO BE CONSIDERED IN APPROVAL PROCESS.—In approving applications for assistance under this title, the Secretary shall give consideration to—

"(1) the severity of distress in the area for which the grant is to be made;

"(2) the extent to which the grant will result in increased, or more stabilized, permanent employment in such area;

"(3) the ratio of private sector investments committed in such area to the amount of the grant applied for;

"(4) the extent to which the appropriate State and local governments have undertaken or agree to undertake other related actions to encourage economic development and the expansion of employment opportunities;

"(5) the effectiveness of the development investment strategy and the degree to which the proposed project contributes to its implementation (including the strategy's relationship to economic problems identified in the strategy), expands employment opportunities in the existing labor market, provides incentives to retain private businesses, expands or improves public facilities, and encourages private investment; and

"(6) the extent to which the strategy and activities are consistent with State and local goals and contribute to long-term economic growth and private sector employment opportunities and establish an overall strengthened economic and business environment which will be self-sustaining.

"(c) LIMITATION ON ASSISTANCE FACILITATING RELOCATIONS.—No assistance may be provided under this title for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation would not significantly and adversely affect employment in, or the economic base of, the area from which the industrial or commercial plant or facility would be leaving.

**"SEC. 104. DISTRESS REQUIREMENTS.**

"(a) CERTIFICATION.—In order to be eligible for assistance under this title, the applicant must certify that the area which is required by section 102 to meet the requirements of this section meets one or more of the following criteria:

"(1) The area has a per capita income of 80 percent or less of the national average.

"(2) The area has an unemployment rate 1 percent above the national average percentage for the most recent 24-month period for which statistics are available.

"(3) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

"(b) DOCUMENTATION OF DISTRESS.—Documentation of distress shall be supported by Federal data, when available, and in other cases by data available through the State government. Such documentation shall be accepted by the Secretary unless it is determined to be inaccurate. The most recent statistics available must be used.

**"SEC. 105. DEVELOPMENT INVESTMENT STRATEGY.**

"(a) PREPARATION AND CONTENTS.—Except as provided in subsection (b), an applicant for assistance under this title shall prepare a development investment strategy for the area which is required by section 102 to meet the requirements of section 104. The development investment strategy must—

"(1) identify the economic development problems sought to be addressed by the grant;

"(2) identify past, present, and projected future economic development investments in such area and public and private participants and sources of funding for such investments;

"(3) identify the extent to which the development investment strategy takes into account—

"(A) availability of developable land and space in the area;

"(B) public works, public service, and development facilities in the area;

"(C) availability of low-cost capital;

"(D) tax policy on investments in the area;

"(E) level of skill of the labor force; and

"(F) ability of State and units of local government to provide financial assistance in the management and implementation of the strategy;

"(4) set forth a strategy for addressing the economic problems identified in paragraph (1) and discusses the manner in which the strategy will solve such problems;

"(5) provide a description of the projects necessary to implement the strategy, an estimate and analysis of the costs and anticipated benefits of implementing the strategy, and an estimate of the timetables for completion of such projects;

"(6) provide a summary of public and private resources which are expected to be available for such projects; and

"(7) provide a comprehensive plan which demonstrates participation in all phases of the development and implementation of the development investment strategy by a representative percentage of small business concerns owned and controlled by socially and economically disadvantaged individuals, as defined by section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

"(b) CONSULTATION OF STATE OR ECONOMIC DEVELOPMENT DISTRICT.—In any case in which a unit of local government is the eligible applicant under section 102(a)(2), the unit of local government shall consult the State or economic development district, respectively, in the preparation of a development investment strategy.

"(c) APPROVAL OF DEVELOPMENT ORGANIZATION'S STRATEGY.—In any case in which a private or public nonprofit development organization within a unit of local government is the eligible applicant under section 102(c)(2), the organization must consult the unit of local government in the preparation of the organization's development investment strategy.

**"SEC. 106. LIMITATIONS ON REVOLVING LOAN FUNDS.**

"(a) PURPOSES AND USES OF GRANTS.—Grants under section 101(a) shall be for the purposes of stimulating small business development and promoting economic growth which contributes to an improved local tax base and the creation of permanent employment opportunities. Such grants may only be made to establish or recapitalize a revolving loan fund which will be used only—

"(1) for making loans or guaranteeing loans to small businesses for initial or working capital, or the purchase, rehabilitation or expansion of facilities or equipment; and

"(2) for making loans or guaranteeing loans to businesses if a relatively small amount of capital is needed to complete financing necessary to retain the business in the area.

"(b) DISTRESS REQUIREMENTS.—A grant made under section 101(a)(2) shall be made on the condition that the revolving loan fund established or recapitalized pursuant to such grant shall be used only for providing assistance described in subsection (a) in areas which meet the requirements of section 104.

"(c) LIMITATION ON AMOUNT OF GRANT.—No grant for the establishment or recapitalization of a revolving loan fund under section 101(a)(2) shall be made for more than $1,000,000.

"(d) CREDIT ELSEWHERE TEST.—No loan or guarantee shall be made from a revolving loan fund established or recapitalized pursuant to a grant under section 101(a)(2) unless the financial assistance applied for is not otherwise available from private lenders on terms which in the opinion of the administrator of the revolving loan fund will permit the accomplishment of the project.

"(e) TERMS OF GRANTS.—

"(1) USE ASSURANCES.—Any applicant for a grant for establishment or recapitalization of a revolving loan fund under section 101(a)(2) shall give assurances that amounts of any loan which are repaid to the fund will be available only for the purposes set forth in subsection (a).

"(2) REPAYMENT ASSURANCES.—No loan or guarantee may be made from a revolving loan fund established or recapitalized pursuant to a grant under section 101(a)(2) unless the applicant for such loan or guarantee provides reasonable assurance of repayment of the loan.

"(3) GRANTEE AS ADMINISTRATOR.—The grantee of any grant for establishment or recapitalization of a revolving loan fund under section 101(a)(2) shall administer the fund.

"(f) CONSIDERATION OF PAST PERFORMANCE.—In determining whether or not to make a grant for recapitalization of a revolving loan fund established or recapitalized pursuant to a grant under section 101(a)(2), the Secretary shall consider past performance of such fund.

**"SEC. 107. FEDERAL SHARE.**

"(a) CONSTRUCTION AND IMPROVEMENT PROJECTS.—The amount of any grant for a project described in section 101(a)(1) shall be that amount which when added to amounts available from all other sources is sufficient to complete such project. In no event shall the amount of any such grant exceed 50 percent of such cost of completing the project as determined at the time of the grant application. The Secretary may increase the maximum percentage of a grant from 50 percent to not more than 80 percent of the costs of completing a project described in section 101(a)(1) for an area which the Secretary determines is one of the most distressed of the areas meeting the distress requirements of section 104; except that the Secretary may not increase such percentage for more than 25 percent of the grants made in any fiscal year. In developing guidelines for determining which areas are the most distressed, the Secretary shall consider whether (1) the median family income for the area for the most recent 24-month period for which data is available is less than or equal to 75 percent of the national average median family income for such period, or (2) the average unemployment rate for the area for such period is greater than or equal to 2 times the national average unemployment for such period. No additional funds shall be granted or otherwise made available under this Act for any project described in section 101(a)(1) for which a grant has been made under this Act.

"(b) ESTABLISHMENT OF REVOLVING LOAN FUNDS.—The amount of any grant for the establishment of a revolving loan fund under section 101(a) shall not exceed an amount which is equal to the amount of funds available from all other sources for the establishment of such revolving loan fund. The amount of any additional grant for the recapitalization of a revolving loan fund previously established with a grant under section 101(a)(2) shall not exceed an amount which is equal to ⅓ of the amount of funds available from all other sources for such recapitalization.

"(c) INDIAN TRIBES.—In the case of a grant to an Indian tribe under section 101(a), the Secretary may reduce or waive any non-Federal share required by this section.

**"SEC. 108. LIMITATIONS.**

"(a) OBLIGATIONS IN A STATE.—Except for expenditures to Indian tribes, not more than 15 percent of the appropriations made for a fiscal year pursuant to this title may be expended in any one State.

"(b) OBLIGATIONS TO A PERSON.—The Secretary shall not obligate more than $4,000,000 in any fiscal year to any person (including any State or local government or public organization) for grants under this title, other than grants for establishment of qualified employee ownership organizations.

**"SEC. 109. COMMUNITY DEVELOPMENT CORPORATIONS.**

"(a) GRANTS.—The Secretary may make grants to community development corpora-

tions to assist small businesses by reducing the interest rates for economic development activities to be carried out by such businesses in areas meeting the distress requirements of section 104.

"(b) AGGREGATE AMOUNT.—The aggregate amount of grants under this section may not exceed $10,000,000 in any fiscal year.

**"SEC. 110. OBLIGATION OF FUNDS.**

"(a) BY MAY 31.—Not later than May 31 of each fiscal year, the Secretary shall obligate for grants under this title not less than 50 percent and not more than 60 percent of the funds appropriated for such fiscal year pursuant to this title.

"(b) BY SEPTEMBER 30.—Not later than September 30 of each fiscal year, the Secretary shall obligate for assistance under this title the remaining funds appropriated for such fiscal year pursuant to this title.

**"SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

"There is authorized to be appropriated to carry out this title, to be available until expended, $200,000,000 per fiscal year for each of fiscal years 1993, 1994, and 1995. Not more than 25 percent of the amount appropriated pursuant to this section for any fiscal year shall be expended to carry out section 101(a)(2).

**"TITLE II—INVESTMENT STRATEGY, PLANNING, EVALUATION, AND DEMONSTRATION**

**"SEC. 201. INVESTMENT STRATEGY AND PLANNING.**

"(a) GRANTS FOR ECONOMIC DEVELOPMENT PLANNING.—The Secretary is authorized to make grants for economic development planning, including the preparation of development investment strategies under section 105 and the payment of administrative expenses, to—

"(1) any State,

"(2) any economic development district,

"(3) any Indian tribe,

"(4) any county if the jurisdictional area of such county meets the requirements of section 104 and is located outside of the boundaries of an economic development district, and

"(5) any other unit of local government with a population of 50,000 or more if the jurisdictional area of such unit meets such requirements and is located outside of the boundaries of an economic development district.

The Secretary is also authorized to make grants for preparation of a development investment strategy under section 105 to any unit of local government with a population of 100,000 or more if the jurisdictional area of such unit meets the requirements of section 104 and, in any case in which such unit is located within the boundaries of an economic development district, such unit consults the district in the preparation of the investment strategy.

"(b) COMPREHENSIVE PLANNING REQUIREMENT.—Planning carried out under this section shall be a part of a comprehensive planning process and shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program.

"(c) PREPARATION OF STATE PLANS.—Any State economic development plan prepared with assistance under this section shall be prepared by the State with the active participation of units of local government and economic development districts located in whole or in part within such State and shall set goals for economic development within such State.

"(d) ANNUAL STATE REPORTS.—Each State receiving assistance under this section shall submit to the Secretary an annual report on the planning process assisted under this section.

"(e) DISTRICT AND LOCAL PLANS CONSISTENT WITH STATE PLAN.—Any economic development planning by an economic development district or a unit of local government for which a grant is made under this section shall consider the State economic development plan for the State in which such district or unit is located.

"(f) COORDINATION OF RESOURCES.—Grants under this section shall be used, to the maximum extent possible, to provide coordination of investment for community facilities, economic development, manpower training, and transportation services.

"(g) ENCOURAGEMENT OF ASSISTANCE.—Each applicant for assistance under this section is encouraged to provide project planning, financial analysis, marketing, management, feasibility studies, and other technical and financial assistance to communities and neighborhoods within its boundaries.

**"SEC. 202. EVALUATION AND DEMONSTRATION.**

"(a) EVALUATION OF DEVELOPMENT INVESTMENT EFFORTS.—The Secretary is authorized to conduct a program of evaluation of Federal, State, and local development investment efforts in order to—

"(1) assist in determining the causes of unemployment, underemployment, severe economic adjustment problems, and chronic distress in areas and regions of the United States; and

"(2) assist in formulating, implementing, or improving programs at the National, State, or local levels which are designed to increase employment in private firms, assist depressed industry sectors, or otherwise promote economic development or adjustment.

"(b) DEMONSTRATION PROGRAMS.—

"(1) IN GENERAL.—The Secretary is authorized to conduct demonstration programs to test the feasibility of new ways to increase productivity and growth designed to make the steel industry and related industries more competitive, to encourage the use and development of innovative technology and research in economic development, to match the labor force with projected labor markets, to improve United States competitiveness, and to encourage economic diversity and regional balance.

"(2) REPORTS.—Not later than 90 days after completion of each demonstration program conducted under this subsection, the Secretary shall transmit to Congress a report on the results of such program.

"(c) ADMINISTRATION.—Programs authorized under subsections (a) and (b) of this section may be carried out by the Secretary acting through the staff of the Department of Commerce, in cooperation with or by the provision of funding to other departments or agencies of the Federal Government, or by contract.

"(d) GRANTS FOR MANAGEMENT AND TECHNICAL ASSISTANCE.—The Secretary is authorized to make grants to colleges, universities, and other organizations to establish and support ongoing programs which provide to businesses and units of local government management and technical assistance for the purposes of promoting productivity, economic development, and employment opportunity.

**"SEC. 203. FEDERAL SHARE.**

"(a) ECONOMIC DEVELOPMENT PLANNING.—The amount of any grant under section 201 may not exceed 75 percent of the cost of economic development planning or of the preparation of a development investment strategy.

"(b) MANAGEMENT AND TECHNICAL ASSISTANCE.—The amount of any grant under section 202(d) may not exceed 75 percent of the cost of establishing and supporting the ongoing management and technical assistance program.

"(c) DETERMINATION OF NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of costs under this section, the Secretary shall give consideration to all contributions both in cash and in kind, including space, equipment, and services.

"(d) INDIAN TRIBES.—In the case of a grant to an Indian tribe under section 201, the Secretary may reduce or waive any non-Federal share required by this section.

**"SEC. 204. OBLIGATION OF FUNDS.**

"Not later than December 31 of each fiscal year, the Secretary shall obligate for grants under section 201, 90 percent of the funds appropriated for such fiscal year pursuant to this title, other than those funds made available for purposes of section 202. The remainder of such funds shall be obligated during such fiscal year only for making grants under section 201 in areas meeting the criteria set forth in section 104(a)(3).

**"SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this title, to be available until expended, $50,000,000 per fiscal year for each of fiscal years 1993, 1994, and 1995.

"(b) LIMITATION ON AMOUNT FOR SECTION 202.—Of sums authorized to be appropriated under subsection (a) of this section, not to exceed $13,000,000 in fiscal year 1993 and not to exceed $15,000,000 in each of fiscal years 1994 and 1995 shall be available for purposes of section 202.

**"TITLE III—ADMINISTRATION**

**"SEC. 301. DEFINITIONS.**

"For purposes of this Act, the following definitions apply:

"(1) ECONOMIC DEVELOPMENT DISTRICT.—The term 'economic development district' means—

"(A) an economic development district designated on or before January 1, 1992, under section 403(a)(1) of the Public Works and Economic Development Act of 1965; and

"(B) any district within a State which is designated by the Secretary, which district is of sufficient size or population and contains sufficient resources to foster economic development on a scale involving more than one county and does not contain within its boundaries any part of another economic development district designated under subparagraph (A) or under this subparagraph.

"(2) JURISDICTIONAL AREA.—The term 'jurisdictional area' means the area over which a unit of local government has jurisdiction.

"(3) INDIAN TRIBE.—The term 'Indian tribe' means the governing body of an Indian tribe, an Indian authority or tribal organization or entity, an Alaska Native village, or any Indian group which is recognized as an Indian tribe by the Secretary of the Interior, except that the term 'Indian tribe' shall also include those bodies, authorities, organizations, entities, or groups not recognized by the Secretary of the Interior, if such body, authority, organization, entity, or group is recognized as a tribe or other similar appropriate entity by the State in which it is located and such State holds land in trust on behalf of such tribe or other similar appropriate entity.

"(4) QUALIFIED EMPLOYEE OWNERSHIP ORGANIZATION.—The term 'qualified employee

ownership organization' includes a qualified employee trust as defined in section 3(c)(2) of the Small Business Act, except that—

"(A) such term shall not be limited to plans maintained by small business concerns or to loans guaranteed under such Act;

"(B) in the case of any form of financial assistance, the principles of section 3(c)(2)(B) of such Act shall apply under regulations prescribed by the Secretary; and

"(C) there shall be periodic reviews of the role, in the management of the concern involved, of employees to whose account stock is allocated.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"(6) SMALL BUSINESS CONCERN.—The term 'small business concern' means a business that is independently owned and operated, is not dominant in its field of operations, and meets such other criteria as the Secretary, after consultation with the Administrator of the Small Business Administration, may by regulation establish, including numbers of employees and dollar volume of business by industrial classes.

"(7) STATE.—The term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas.

"(8) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, town, parish, village, or other general purpose political subdivision of a State.

**"SEC. 302. APPOINTMENT OF ASSISTANT SECRETARY.**

"The Secretary shall administer this Act with the assistance of an Assistant Secretary of Commerce, established by section 601 of the Public Works and Economic Development Act of 1965. Such Assistant Secretary shall perform such functions as the Secretary may prescribe.

**"SEC. 303. CONSULTATION WITH OTHER PERSONS AND AGENCIES.**

"The Secretary is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment. The Secretary may make provisions for such consultation with interested departments and agencies as he may deem appropriate in the performance of the functions vested in him by this Act.

**"SEC. 304. ADMINISTRATION OF ASSISTANCE.**

"No grant shall be approved under this Act unless the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

**"SEC. 305. POWERS OF THE SECRETARY.**

"(a) LIST OF POWERS.—In performing his duties under this Act, the Secretary is authorized to do the following:

"(1) Adopt, alter, and use a seal, which shall be judicially noticed.

"(2) Hold such hearings, sit and act at such times and places, and take such testimony, as the Secretary may deem advisable.

"(3) Request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act. Each department, bureau, agency, board, commission, office, establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary.

"(4) Acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized by this Act.

"(5) Procure by contract the temporary or intermittent services of experts and consultants or organizations therefor as authorized by section 3109(b) of title 5, United States Code, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) in accordance with section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

"(6) Sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne, or final, shall be issued against the Secretary or property of the Secretary.

"(7) Establish such rules, regulations, and procedures as the Secretary may deem appropriate in carrying out the provisions of this Act.

"(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act (including subsection (a)(6)) shall be construed to except the activities under this Act from the application of sections 517, 547, and 2679 of title 28, United States Code.

**"SEC. 306. CERTIFICATION.**

"(a) ACCEPTANCE.—The Secretary may discharge any of his responsibilities relative to a project for which a grant may be made under title I of this Act by accepting a certification by the applicant of the applicant's performance of such responsibilities.

"(b) RESCISSION OF ACCEPTANCE.—Acceptance by the Secretary of an applicant's certification under this section may be rescinded by the Secretary at any time if, in the opinion of the Secretary, it is necessary to do so.

"(c) REGULATION.—The Secretary shall issue such guidelines and regulations as may be necessary to carry out this section.

**"SEC. 307. SAVINGS PROVISIONS.**

"(a) AFFECT ON PROCEEDINGS.—No suit, action, or other proceeding lawfully commenced by or against the Secretary or Assistant Secretary or any other officer in his or her official capacity or in relation to the discharge of his or her official duties under the Public Works and Economic Development Act of 1965 shall abate by reason of the taking effect of the amendment by section 103 of the Public Works and Economic Development Act Amendments of 1992, but the court may, on a motion or supplemental petition filed at any time within 12 months after the effective date of such amendment, showing a necessity for the survival of such suit, action, or proceeding to obtain a settlement of the questions involved, allow such suit, action, or proceeding to be maintained by or against the Secretary or Assistant Secretary or such other officer of the Department of Commerce as may be appropriate.

"(b) EXISTING REGULATIONS AND PROCEEDINGS.—All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, before the effective date of such amendment, by any agency, officer, or office pertaining to any functions, powers, and duties under the Public Works and Economic Development Act of 1965 shall continue in full force and effect after such effective date until modified or rescinded by the Secretary or such other officer of the Department of Commerce as, in accordance with applicable law, may be appropriate.

**"SEC. 308. ANNUAL REPORT.**

"The Secretary shall make a comprehensive and detailed annual report to Congress of operations under this Act for each fiscal year beginning after the year ending September 30, 1992. Such report shall be printed and shall be transmitted to Congress not later than February 1 of the year following the fiscal year with respect to which such report is made.

**"SEC. 309. PREVAILING RATE OF WAGE.**

"(a) GENERAL RULE.—All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, commonly known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a–276a–5).

"(b) ASSURANCE.—The Secretary shall not extend any financial assistance under this Act for any project without first obtaining adequate assurance that the standards required by subsection (a) will be maintained upon the construction work.

"(c) FUNCTION OF SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the standards required by subsection (a), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. App.), and section 2 of the Act of June 13, 1934 (48 Stat. 948; 40 U.S.C. 276c).

**"SEC. 310. RECORD OF APPLICATIONS.**

"The Secretary shall maintain as a permanent part of the records of the Department of Commerce a list of each application approved for a grant under this Act, which shall be kept available for public inspection during the regular business hours of the Department of Commerce. The following information shall be posted in such list as soon as each application is approved:

"(1) The name of the applicant.

"(2) The amount and duration of the grant for which application is made.

"(3) The purposes for which the proceeds of the grant are to be used.

**"SEC. 311. RECORDS AND AUDIT.**

"(a) GENERAL RULES.—

"(1) RECORDS.—Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which—

"(A) fully disclose the amount and the disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

"(B) review the efficiency, economy, and effectiveness of the project carried out under this Act.

"(2) REPORTS TO SECRETARY.—Not later than January 11 and July 11 of each year, each recipient shall transmit a report to the Secretary containing all information prescribed under paragraph (1) which relates to all activities carried out during the preceding period relating to grants made to it under this Act. Each report submitted in January of each year shall include an audited statement of all funds spent on the project or undertaking during the preceding fiscal year. Such statement shall be prepared

in accordance with chapter 75 of title 31, United States Code, or agency regulations governing the audit of nonprofits.

"(b) ACCESS TO INFORMATION.—For the purpose of reviewing the efficiency, economy, and effectiveness of programs carried out under the provisions of the Act, including audit and examination, the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of any recipient, subrecipient, contractor, or subcontractor that are pertinent to assistance received under this Act.

**"SEC. 312. NONDISCRIMINATION REQUIREMENTS.**

"In administering this Act, the Secretary may not—

"(1) discriminate in favor of or against any qualified applicant based on the fact that the area in which the project would be located is either rural or urban in character;

"(2) create separate allocations of funds to provide assistance for urban and rural areas unless such allocations are based on objective findings of relative levels of distress in areas qualified for assistance under this Act; or

"(3) deny assistance to a qualified applicant based on the fact that the project area is located in a State which has a low level of unemployment.

**"SEC. 313. AUTHORIZATION OF APPROPRIATIONS.**

"There is authorized to be appropriated for salaries and administrative expenses to carry out the provisions of this Act $26,000,000 per fiscal year for each of fiscal years 1993, 1994, and 1995. Appropriations under this Act shall remain available until expended. Any contract entered into pursuant to this Act shall be effective only to such extent and in such amounts as may be provided in advance in an appropriation Act.".

**SEC. 104. AMENDMENT TO TITLE IX OF PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.**

Section 905 of the Public Works and Economic Development Act of 1965 is amended to read as follows:

**"SEC. 905. AUTHORIZATION OF APPROPRIATIONS.**

"There is authorized to be appropriated to carry out this title $50,000,000 per fiscal year for each of fiscal years 1993, 1994, and 1995.".

**SEC. 105. AMENDMENT TO SHORT TITLE OF PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.**

The Public Works and Economic Development Act of 1965 is amended by striking "That this Act may be cited as the 'Public Works and Economic Development Act of 1965'." and inserting the following:

**"SECTION 1. SHORT TITLE.**

"This Act may be cited as the 'National Development Investment Act'.".

## TITLE II—APPALACHIAN REGIONAL DEVELOPMENT

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Appalachian Regional Development Act Amendments of 1992".

**SEC. 202. FINDINGS AND PURPOSES.**

Section 2 of the Appalachian Regional Development Act of 1965 is amended—

(1) in subsection (a) by striking the period at the end of the 6th sentence and inserting "and in severely distressed and underdeveloped counties and areas lacking resources for basic services."; and

(2) by adding at the end the following new subsection:

"(c) The Congress further finds and declares that, while substantial progress has been made in fulfilling many of the objectives of this Act, rapidly changing national and global economics over the past decade have created new problems and challenges for rural areas throughout the Nation and especially for the Appalachian region. Thus, the problems of the region are not only to provide the infrastructure necessary to economic and human resource development, to develop its industry, and to generate a diversified regional economy, but to make the region's industrial and commercial resources more competitive in national and world markets. It is, therefore, also the purpose of this Act to provide a framework for coordinating Federal, State, and local initiatives to respond to the economic competitive challenge through improving the skills of the region's manpower, adapting and applying new technologies for the region's businesses, and improving the access of the region's businesses to the technical and financial resources necessary to their development while continuing to address the need to provide basic services for the more disadvantaged areas of the region so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across this Nation.".

**SEC. 203. AUTHORIZATIONS FOR ADMINISTRATIVE EXPENSES.**

Section 105(b) of the Appalachian Regional Development Act of 1965 is amended by striking the period at the end and inserting the following: ", and not to exceed $3,800,000 per fiscal year for each of fiscal years 1993, 1994, and 1995. Of amounts appropriated pursuant to the preceding sentence for each of fiscal years 1993, 1994, and 1995, not to exceed $1,300,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff.".

**SEC. 204. EXTENSION OF LEASE TERMS.**

Section 106(7) of the Appalachian Regional Development Act of 1965 is amended by striking "1982" and inserting "1995".

**SEC. 205. HIGHWAY SYSTEM.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 201(g) of the Appalachian Regional Development Act of 1965 is amended by striking the period at the end and inserting the following: "; and $144,000,000 per fiscal year for each of fiscal years 1993, 1994, and 1995.".

(b) FEDERAL SHARE.—

(1) GENERAL RULE.—Section 201(h)(1) of such Act is amended by striking "70 per centum" and inserting "80 percent".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to projects approved after March 31, 1979.

**SEC. 206. DEFINITIONS.**

(a) UPDATING OF COVERED FEDERAL GRANT-IN-AID PROGRAMS.—The first sentence of section 214(c) of the Appalachian Regional Development Act of 1965 is amended by striking "December 31, 1980" and inserting "October 1, 1996".

(b) LIMITATION ON COVERED ROAD PROJECTS.—The second sentence of such section is amended by inserting "authorized by title 23, United States Code" after "road construction".

**SEC. 207. PROGRAM DEVELOPMENT CRITERIA.**

Section 224(a) of the Appalachian Regional Development Act of 1965 is amended by inserting before the semicolon at the end of paragraph (1) the following: "or in a severely distressed and underdeveloped county or area lacking resources for basic services".

**SEC. 208. REMOVAL OF LIMITATION.**

Section 224(b) of the Appalachian Regional Development Act of 1965 is amended—

(1) by striking "(2) to finance" and all that follows through "(3)" and inserting "(2)"; and

(2) by striking "(4)" and inserting "(3)".

**SEC. 209. MAXIMUM FEDERAL SHARE.**

Section 224 of the Appalachian Regional Development Act of 1965 is amended by adding at the end the following new subsection:

"(d) MAXIMUM FEDERAL SHARE.—Notwithstanding any other provision of this Act, after September 30, 1992, grants made with funds authorized under this Act shall not exceed 50 percent of the costs of any project approved under this Act (except projects under section 201); except that, notwithstanding any limitation of any other Federal law, such grants may increase the Federal contribution to any project being carried out under such other law and eligible for financial assistance under this Act to such percentage as the Commission determines appropriate within the limitations of this Act. The Commission may increase the maximum percentage of a grant from 50 percent to not more than 80 percent of the costs of a project approved under this Act for a county which the Commission determines is one of the most distressed counties in the Appalachian region; except that the Commission may not increase such percentage for more than 25 percent of the grants made in any fiscal year.".

**SEC. 210. GRANTS FOR ADMINISTRATIVE EXPENSES AND DEMONSTRATION PROJECTS.**

(a) GENERAL RULE.—Section 302(a)(3) of the Appalachian Regional Development Act of 1965 is amended—

(1) by inserting after "technical assistance" the following: "(including technical assistance for business development and stabilization and application of technologies and productivity improvement)";

(2) by inserting after "training programs" the following: "(including on-site employee training and programs to upgrade employability of the region's people)"; and

(3) by inserting after "demonstrations" the following: "(including demonstrations of service consolidations and other methods of increasing efficiency of local governments, the establishment and operation by States, public agencies, or nonprofit development organizations of revolving funds for business assistance loans, the establishment and operation of business incubators and the provision of industrial facilities and equipment by public agencies and nonprofit organizations on such terms (including terms of reasonable recovery of grant funds upon resale) as are approved by the Commission, and the acquisition and development of land)".

(b) LIMITATIONS ON DEMONSTRATION GRANTS.—Subsection (b)(1) of such section is amended—

(1) by striking ", (3), or (4)," and inserting "or (4),";

(2) by inserting "or economic" after "energy"; and

(3) by striking the second sentence and inserting the following: "Funds in energy enterprise development loan funds established with grants previously approved by the Commission under this section may, upon approval of the Commission pursuant to section 303, after the date of the enactment of the Appalachian Regional Development Act Amendments of 1992, be made available for the purposes authorized in subsection (a)(3).".

**SEC. 211. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PROGRAM.**

Section 401 of the Appalachian Regional Development Act of 1965 is amended by adding at the end the following: "In addition to the appropriations authorized in section 105 for administrative expenses and in section

201(g) for the Appalachian development highway system and local access roads, there is authorized to be appropriated to the Commission, to be available until expended, to carry out this Act, $37,500,000 per fiscal year for each of fiscal years 1993, 1994, and 1995.".

**SEC. 212. DEFINITION OF APPALACHIAN REGION.**

The 12th undesignated paragraph of section 403 of the Appalachian Regional Development Act of 1965, relating to Virginia, is amended—

(1) by inserting "Montgomery," after "Lee,"; and

(2) by inserting "Roanoke, Rockbridge," after "Pulaski,".

**SEC. 213. EXTENSION OF TERMINATION DATE.**

Section 405 of the Appalachian Regional Development Act of 1965 is amended by striking "1982" and inserting "1995".

**SEC. 214. BUY-AMERICAN REQUIREMENT.**

(a) DETERMINATION BY THE COMMISSION.—If the Appalachian Regional Commission, with the concurrence of the Secretary of Commerce and the United States Trade Representative, determines that the public interest so desires, the Commission is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made under this Act that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Commission shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this Act for which—

(1) amounts are authorized by this Act (including the amendments made by this Act) to be made available; and

(2) solicitation for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Commission shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1993 and 1994 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement or an international agreement to which the United States is a party. The Commission shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SECRETARY.—The term "Commission" means the Appalachian Regional Commission.

(2) DOMESTIC FIRM.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. KOLTER] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. BENTLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. KOLTER].

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

I rise in behalf of H.R. 4157 and urge members to support it.

As chairman of the Subcommittee on Economic Development, I am pleased to join my colleagues on the Committee on Public Works and Transportation and the Committee on Banking, Finance and Urban Affairs in bringing this bill to the House. I want to thank Chairman BOB ROE, and ranking member, JOHN PAUL HAMMERSCHMIDT, of the Public Works Committee, and HELEN DELICH BENTLEY, ranking member on the subcommittee, for their help and support on this issue and others that came before us.

This bill should be familiar to many of you. Title I strikes titles I through VIII of the existing Public Works and Economic Development Act and replaces them with provisions substantially similar to bills which overwhelmingly passed the House in the last five Congresses—by 340 to 82 in the 102d. It improves existing legislation and provides grants for new construction or improvement of public facilities as well as grants for revolving loan funds to assist business growth, for economic development and strategy planning, and for technical and management assistance. Titles VIII, IX and X of the existing law are retained.

Title IX, has long been one of EDA's most active and flexible programs. It provides economic adjustment assistance to help areas overcome long-term economic deterioration [LTED] as well as areas threatened or impacted by sudden and severe economic dislocation [SSED] such as military base closures, major plant closings, defense industry cutbacks, and natural disasters. In fact, EDA is currently operating under an agreement with the Department of Defense Office of Economic Adjustment using $50 million provided in the Defense Authorization and Defense Appropriations Acts of the last Congress specifically for defense-related adjustment activities. Funds were also recently made available in the Supplemental Appropriations Act for title IX assistance to States and local communities affected by Hurricane Andrew and Typhoon Omar.

Title II of H.R. 4157, amends the Appalachian Regional Development Act. It provides for the Appalachian Regional Commission's Development Highway System and the area development programs and adds three counties in Virginia to the legal definition of the Appalachian region.

Authorizations for the Public Works and Economic Development Act programs would be $300 million for each fiscal year 1993, 1994, and 1995 for development, planning, and economic adjustment programs and $26 million annually for salaries and expenses.

For ARC, annual authorizations for the 3 fiscal years would be $144 million for highways, $37.5 million for area development programs, and $3.8 million for administrative expenses.

Given the present state of our economy, the need is greater than ever for this Federal effort to assist disadvantaged rural and urban areas promote economic growth and help the private sector create new jobs. Also, as our economy increasingly is involved in worldwide markets, it is imperative that we pursue a variety of strategies to help all areas of the country become competitive in the global economy of the 21st century.

I urgently request your support in passing H.R. 4157.

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

□ 2250

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

Mr. Speaker, my first order of business this evening is to commend the gentleman from Pennsylvania for his leadership as chairman of the Public Works and Transportation Subcommittee on Economic Development during the 102d Congress, and for his help and hard work in drafting the legislation under consideration, H.R. 4157. I want to tell the gentleman from Pennsylvania how much I will miss working with him in the future. I also want to thank Chairman ROE and Mr. HAMMERSCHMIDT, ranking minority member of the full committee for their leadership and assistance.

Mr. Speaker, as the ranking minority member of the Subcommittee on Economic Development, I rise in support of H.R. 4157.

This legislation authorizes $276 million annually for the Economic Development Administration and $185 million annually for the Appalachian Regional Commission for fiscal years 1993, 1994, and 1995.

Both agencies were created by the Congress in 1965 to provide Federal assistance for economically distressed urban and rural areas throughout the United States, and, hopefully, to spur economic renewal and growth.

Our committee held 3 days of hearings on this legislation and heard testimony from various public and private

entities about the successes and continued need for these programs.

Mr. Speaker, EDA and ARC, and the programs these agencies administer, are the safety nets for many Americans in need—safety nets that remain in place despite efforts over the past 11 years to dismantle them.

EDA and ARC programs are positive initiatives designed to generate economic growth, generate jobs, and help improve the standard of living of those people living in the most economically depressed areas of our Nation.

As the subcommittee states in the report accompanying H.R. 4157,

> Given the present state of our economy and the future outlook, the need is greater than ever for a federal role to assist distressed urban and rural areas to promote economic growth and deal with a serious matter of national importance—namely, how to help the private sector create new jobs.
>
> Direct funding is required to get economic initiatives moving. Experience has shown that long-lasting economic development leading to creation to good paying jobs requires continual activity, a systematic building process based on a variety of strategies and the on-going planning and nurturing of many people and organizations.

Mr. Speaker, H.R. 4157 would enhance EDA and ARC programs designed to assist that process.

The Subcommittee and the full committee, I believe, has improved upon previous legislative efforts to reauthorize EDA and ARC, legislative efforts that overwhelmingly were passed by the House, but, unfortunately, died because of Senate inaction.

The bill amends the often-criticized current procedure of over-designating areas eligible for EDA assistance and it will target more closely economic development assistance to depressed areas.

Mr. Speaker, H.R. 4157 is an excellent bill—urgently needed by many communities throughout the Nation, and I strongly urge all of my colleagues to vote for this most critical piece of legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I thank the gentlewoman for yielding time to me.

I rise in very strong support of H.R. 4157.

First of all, I want to commend the gentleman from Pennsylvania [Mr. KOLTER] and the ranking member, the gentlewoman from Maryland [Mrs. BENTLEY] for bringing this legislation to the floor tonight.

It is a program which I have been closely involved with for a great many years, and I really appreciate the persistence of the gentleman from Pennsylvania [Mr. KOLTER] in attempting to get this program reauthorized. It deserves to be. It has been a good program, one that I think has stood the test of time and should be reauthorized tonight.

I really sought membership on the Committee on Public Works and Transportation because of my interest in the Economic Development Administration and what I thought it really could do and had done to foster private sector employment in this country. In a former life, I served as the chief counsel of the Economic Development Administration and observed firsthand how the programs worked, the grant program, the Public Works Grant Program, the title 9 Program to address sudden and severe increase in unemployment in various areas.

Contrary to what some of my Republican colleagues in the administration felt, that it was not an effective program, I really observed how we have, in fact, with a very modest investment of Federal funds, been able to leverage a tremendous amount of private sector employment. That is what this is all about.

It really is one of the few programs, coupled with the Appalachian Regional Commission funds, it is really one of the few programs that we have at the Federal level anymore that is designed to foster private sector employment, which is what I thought we should be all about. So I think this is a good program.

As I say, I have seen firsthand how effective it has been in various titles. I think the fact that the gentlewoman from Maryland [Mrs. BENTLEY] alluded to, that one of the things that we were criticized for in EDA, which was that too many areas of the country were qualified for EDA assistance but were not really distressed areas, that once they were identified as what we called a development area, they never got disqualified, and even though they became affluent.

This bill takes care of that. It does recognize that areas can be assisted and should no longer be qualified for EDA assistance so that the money can be directed to those areas that really need it. So this is something that I have regretted for a long time, is that my own administration has been unwilling or unable to see the benefits that this program has brought.

I just commend both of my colleagues for bringing it to the floor tonight.

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

I sure wish that if the hour were not so late I could join my colleagues from the other side in talking about the virtues of the EDA programs and the ARC programs. We could talk for hours.

However, time is late.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

Before concluding, I want to thank and commend the majority staff, Carl Lorenz, Marty Downie, and John Ferrera, and especially Susan Fry and Bill Lally of the minority staff for their outstanding service and hard work.

Again, Mr. Speaker, I want to tell my chairman how much I enjoyed working with him.

Mr. ROE. Mr. Speaker, I would first like to pay my complements to JOHN PAUL HAMMERSCHMIDT of Arkansas, ranking member of the Committee on Public Works and Transportation, JOE KOLTER of Pennsylvania, chairman of our Subcommittee on Economic Development, and HELEN DELICH BENTLEY of Maryland, the subcommittee's ranking Republican member. This is the last time that I will work with these distinguished members on this important legislation and I commend them on their excellent effort on this bill.

As a former chairman of the Economic Development Subcommittee, I am quite familiar with the good works of the Economic Development Administration and the Appalachian Regional Commission which are reauthorized under this bill.

Mr. Speaker, I am sure that our colleagues have heard me speak on many occasions about the importance of investment in our Nation's public works. From such projects, our Nation derives immediate benefit from increased jobs and public facilities for our citizens, and long-term benefit from enhanced efficiency, productivity, and competitiveness. Reauthorization of these programs is especially important because the Economic Development Administration and the Appalachian Regional Commission direct public investment and job creation activities toward those communities which most desperately need them. H.R. 4157 continues authorization for these vital programs which were originally signed into law in 1965. During the past 27 years, EDA and ARC have improved the lot of millions of American citizens.

Title I of the bill, the National Development Investment Act, provides tools to local communities that need special assistance to resolve their economic problems. Under the Public Works and Economic Development Act, the Economic Development Administration has provided funding for distressed communities through construction, repair, and improvement of public facilities, revolving loan funds to assist small business creation and expansion, Employee Stock Ownership Programs to prevent economic displacement, technical assistance, and emergency relief for the victims of economic dislocation and natural disaster.

Title II reauthorizes the Appalachian Regional Commission in line with policies endorsed by the Appalachian Governors. The commission is a fine example of cooperation among the various levels of Government. It is comprised of the Governors of the 13 States within the region, and a Federal cochairman who is appointed by the President the administration supports funding for the ARC in its fiscal 1993 budget.

The commission has overseen the construction of 2,181 miles of the Appalachian Highway Corridor System which is authorized at a total of 3,025 miles. The corridor system is the most important aspect of attempts to diversify the Appalachian economy, attract new business, and improve the quality of life through-

out the region. The ARC has also provided support for business, civic, and communications infrastructure, waste and water treatment facilities, rural and primary health care facilities, educational consortia, and many other projects.

In addition to the obvious benefits of this program, Mr. Speaker, many of the jobs that are created will affect the construction industry, which has been one of those hardest hit by the current recession and by commercial overbuilding in the 1980's. Economists and construction leaders testifying before our committee this year estimated that, as a result of the commercial building glut, high double digit unemployment in the construction industry will continue for several years. Relief to this crucial industry will be a most important and beneficial side effect of these programs.

In conclusion, Mr. Speaker, although such programs as EDA and ARC have improved the lot of so many Americans, these difficult times require that we be ever more vigilant in supporting the economic strength of our Nation. These programs are crucial to our economy because they seek to address the chronic poverty and isolation which drain the resources of the Nation as a whole. Elevating the quality of life of these citizens will add to the prosperity of all Americans by making distressed communities, and therefore our country, more productive and more competitive.

Mr. HAMMERSCHMIDT. Mr. Speaker, once again we have a bill before us to reauthorize the programs of the Economic Development Administration [EDA] and the Appalachian Regional Commission [ARC].

Since 1965, these programs have provided the impetus for the revitalization of economically depressed areas across the country. Over the years, legitimate concerns have been raised about these programs, and the Public Works and Transportation Committee has worked diligently, and in bipartisan fashion, to address those concerns.

Several significant reforms are made by this bill. Authorization levels are considerably reduced from the peak levels of the late 1970's. Eligibility criteria have been narrowed so that limited funds are targeted to the most distressed areas, and consideration is directed to be given to those projects with the greatest potential for success. Long-term designations of distress are eliminated and replaced with a requirement for annual certification. Most importantly, the legislation requires comprehensive, coordinated planning between State and local governments in order to insure that long-term, successful economic development strategies are implemented.

H.R. 4157 also extends the highway and area development programs of the Appalachian Regional Commission, programs which have contributed significantly to economic improvement in one of the most economically depressed areas of the country. Meaningful gains in the region made over the years have been threatened by technological changes, an increasingly global marketplace, and the recent national economic slowdown. To forestall that threat, continued funding is provided for area redevelopment efforts, and for continued construction and improvement of the Appalachian Development Highway System, the system established to end the isolation of the Appalachian region.

While one can argue over various provisions of an EDA/ARC reauthorization bill, and over certain programmatic aspects, there really should be no argument as to the validity of needs in economically distressed communities throughout this country. The challenges facing those communities is quite varied. For some, economic improvement is limited because of crumbling public works infrastructure, while others have suffered the shock of losing major industries and hundreds or thousands of jobs. In addition, many areas across the Nation are facing economic upheaval because of the occurrence of major disasters or military base closures and defense industry cutbacks. For all of those areas, there is little hope for economic improvement without some measure of federal support.

H.R. 4157 represents an important effort toward providing the support needed by distressed communities. It authorizes $200 million a year over 3 years for grants for the construction, repair and rehabilitation of vital infrastructure facilities, as well as to create revolving loan funds to provide seed capital to stimulate the growth of small businesses. The bill also requires the development of comprehensive, long-term economic recovery strategies, and provides funding to aid the planning process. The active participation of the private sector, without whom true economic growth is impossible, is encouraged to the maximum extent. Finally, the title IX economic adjustment program, which has become increasingly important in providing both general and defense related economic adjustment assistance, as well as economic aid to communities recovering from disasters, is retained.

I would like to commend Chairman BOB ROE; our economic development subcommittee chairman, JOE KOLTER, and the ranking Republican member HELEN BENTLEY, for their leadership in crafting this legislation. The House has expressed strong support in the five previous Congresses for similar legislation, and I hope to see that support continued today.

Mr. MINETA. Mr. Speaker, I rise to express my strong support for H.R. 4157, A bill to reauthorize and amend the programs administered by the Economic Development Administration [EDA] and those of the Appalachian Regional Commission [ARC]. This bill is similar to those reported by the Committees on Public Works and Transportation and Banking, Finance and Urban Affairs and passed by the House in the five previous Congresses.

Title I of the Bill, the National Development, Investment Act, provides assistance to encourage economic diversification, adjustment and development in economically distressed areas. It modifies, improves on and updates the programs currently administered by the Economic Development Administration. It helps local communities struggling to rebuild their economic resources and encourages active participation and coordination of the private sector and other public units in developing long-term strategies to deal with economic problems and create jobs.

Title II of H.R. 4157 reauthorizes funding for the highway and non-highway programs of the Appalachian Regional Commission. It provides the commission with the tools to address current challenges facing the region from changing national and international economies, to provide for basic needs of the region's most severely distressed areas, and to encourage regionwide investment that can promote economic growth and improve the standard of living of the region's citizens.

The bill provides authorizations for fiscal years 1993, 1994 and 1995. For the National Development Investment Act, annual authorizations would be $300 million for development facilities, planning and investment strategy and economic adjustment, and $26 million for salaries and expenses. For the Appalachian Regional Commission programs, annual funding would be $37.5 million for non-highway programs, $144 million for the development highway system programs and $3.8 million for salaries and expenses.

Authorizations for both these programs expired on September 30, 1982; however, funds have been made available each year since then through budget and appropriations measures. The authorization levels contained in this bill are considerably less than pre-1982 levels and that reflects the committee's concern about our Federal deficit problems.

At the same time, however, the committee is committed to maintaining a Federal role to help disadvantaged local areas bolster neglected infrastructure, undertake a variety of economic development projects and encourage this start up or expansion of small businesses that can create jobs.

Evaluations of existing programs received during committee hearings have provided convincing evidence that these regional and subregional development projects have served a national economic and social purpose. The Federal dollars spent have attracted other investment dollars from non-federal sources and the private sector and have been effective in helping the private sector retain and create jobs. The result is that more tax dollars have been returned to Federal, State and local treasuries than went out.

This legislation represents a positive approach to dealing with some of our Nation's most pressing problems. I urge your support to pass H.R. 4157.

Mrs. LLOYD. Mr. Speaker, I rise in strong support of H.R. 4157, legislation to revise and extend the Public Works and Economic Development Act and the Appalachian Regional Development Act of 1965. The importance of this bill to businesses and communities in the Third District of Tennessee and around the country cannot be understated.

This bill allows funds to be directed towards projects and programs to assist communities in providing services, attracting new businesses and creating much needed jobs. In many cases, were it not for these programs, basic services in some communities would be severely limited. We must not turn our back on these areas and this bill allows us to address many of their problems head on.

I believe the Federal Government can be a partner with communities. Through these programs, the Federal Government can give smaller or economically distressed communities some support so they can take that first step towards productivity and economic stability.

If we want new directions for our economy, and our future, and most of us do, I am con-

vinced that our Nation must make investments that will pay real and lasting dividends. These programs are investments.

The projects that will be authorized through this bill create incentives and opportunities that are not otherwise available. Loan funds for business assistance, establishment of business incubators, community infrastructure projects, employee training, and many other programs that encourage and promote a strong and thriving economic community.

In these difficult economic times, we need the programs which this legislation supports now more than ever. I have seen and heard first hand the wonderful improvements and results that can be achieved through these initiatives and I am glad we have the opportunity before us today to continue this good work. I urge your support for this important piece of legislation. Thank you.

Mr. ROGERS. Mr. Speaker, let me first commend the authors for putting together this important legislation, and working to get it to the floor. I rise in support of this bill.

The EDA and the ARC help those pockets of the Nation which struggle to improve economically, but which face much tougher obstacles to self-sufficiency. The part of the Nation I represent—eastern Kentucky—remains isolated. We are still losing coal jobs in the mines, losing textile jobs in the cut and sew shops, and constantly working to replace those jobs with new opportunities. But in these areas, efforts to break out of generations of poverty are difficult at best.

EDA and the ARC have played essential roles in those instances where the cycle of poverty has been broken, where chances to prosper have been tapped, and where our hard work has paid off.

A small water line, funded by an EDA grant, can mean hundreds of jobs if it attracts a new company or plant. Revolving loans to dozens of small businesses have helped to build a business infrastructure in towns where none existed. EDA works. The proof can be found in my Kentucky district, and in many others across the country.

The Appalachian Regional Commission responds to like circumstances. The ARC region encompasses many straddled, poverty-stricken counties, in areas where redoubled efforts are needed on the part of all officials—Federal, State, and local—if our livelihoods are to improve. Like the EDA, the ARC programs give our communities and our local volunteers a chance to lift themselves up, with just a little assistance.

Here is an example where a shot in the arm from the ARC has made an incredible difference in the lives of our people. In eastern Kentucky, a high dropout rate remains in our schools. Education has suffered and with it the region. So we went to work to address the problem. With $50,000 in seed money from the ARC, local volunteers launched a major education improvement initiative that grew into a self-sufficient, multi-county organization. Five years from inception, it still exists, involving hundreds of volunteers, giving assistance to teachers and students, giving those who need it a jump start towards a high school diploma or an equivalency degree. Many who otherwise would have dropped out have stayed in, finishing their work, helping themselves and helping their home communities.

This is merely one example. There are many, many others. And the bill before us would produce many more. H.R. 4157 authorizes $300 million annually for EDA programs, ranging from public works grants to technical assistance. Title II of the bill authorizes $185.3 million annually for the Appalachian Regional Commission, for development initiatives and highway construction. Both programs have been funded over the years, absent authorization. But programs suffer, despite continued funding, when they remain unauthorized for extended periods. It is important to renew these missions, and the Committee on Public Works and Transportation has rightly done so in bringing this bill to the House.

I urge my colleagues to vote for this bill, and to provide the guts for structural change that our communities need for the decades ahead. Support H.R. 4157.

Mr. RAHALL. Mr. Speaker, I rise in support of H.R. 4157, the reauthorization of the Economic Development and Appalachian Regional Commission programs. It is my hope, as it has been since 1982, that we can bring this bill to enactment and rely on it for future funding of these vital economic development programs, rather than continue to rely on the appropriations process.

I will note one thing of concern, and that is the authorization level for the ARC. The bill authorizes a spending level of $185 million for the ARC. In this year's Energy and Water Appropriations Conference Agreement, while we did not get an increase for ARC above fiscal year 1992's level, it was level-funded at $190 million for the coming fiscal year.

It was my hope that perhaps the authorization level would be increased to at least today's funding level of $190 million.

In the interest of time, I will quickly reiterate that the reauthorization of the EDA and the ARC is of utmost importance, particularly as we continue to try to climb out of the economic recession and continue our mighty struggle to create jobs and attend to our infrastructure's renovation and rehabilitation needs at the same time. It is timely and appropriate for us to take action to approve H.R. 4157 today.

This committee is to be commended, and I do commend it and its leadership, because it is the only committee that has acted quickly and strongly with anything remotely resembling jobs legislation throughout the 102d Congress, which encompasses the entire recession period. I say this in reference to our highway bill, our water resources and development legislation, and now this bill calling for continued funding authority for local economic development opportunities provided both under EDA and ARC. These are job-creating initiatives, and will help tremendously in helping put the unemployed back to work and put an end to the recession.

I commend our excellent chairman, BOB ROE and our ranking minority member JOHN PAUL HAMMERSCHMIDT for their leadership throughout this Congress and over all the years as they serve with distinction in their capacities as stewards of public works and transportation initiatives to serve our country.

I commend also our colleague, JOE KOLTER, for his perseverance in getting an EDA/ARC reauthorization bill to full committee markup, and we share with him the nostalgia of this last time he will be among us to preside over the Subcommittee on Economic Development, or on the floor of this body he has served so well. I was privileged to travel to Chairman KOLTER's district last year for a hearing on the ARC reauthorization, and to share with him and his constituency West Virginia's continuing need for ARC programs and funding, as one of the 13 Appalachian States, and to let them know that I understood Pennsylvania's needs as well. The people of Appalachia continue to live in those quiet, rural hamlets far from society's mainstream, on the land that they may not own, but which they love, in an area known to the world as the poverty pocket of the United States, but known to them as home.

I take my hat off to the leadership of our able chairman of the Subcommittee on Water Resources, HENRY NOWAK and commend his leadership too on behalf of water resources development and clean water initiatives over the years, for guiding one more, one last, Water Resources bill to the floor for enactment, and which passed last week by an overwhelming majority vote of 326 to 87.

Each of our departing Public Works chairmen will be sorely missed, but will remain in our hearts as personal friends and as chief architects of major legislation of urgent need and enormous human benefit in our States and congressional districts for many years to come. I thank each of you for your sense of fairness, your willingness to listen and to turn your attention to our individual State need. I commend your integrity, and your reliability, for even when you have to say no to some of our project requests, you have said no with all due respect for our position, and complete understanding of our diverse reasons for our position, and complete understanding of our diverse reasons for seeking your accommodation. Gracious to a fault, each of you have acted in ways which were all we could hope for from your respective chairs, and for which I have always been and will remain deeply appreciative.

I strongly recommend H.R. 4157 to my colleagues and urge that it passes.

Mr. MINETA. Mr. Speaker, this body considered and passed H.R. 4157, the Public Works and Economic Development Act of 1965, under suspension last Friday. The bill is an important one which authorizes programs for local economic adjustment strategies, including those for areas experiencing long-term economic deterioration and areas which are victims of sudden and severe economic dislocation. I wanted to emphasize a portion of the committee report which discussed the economic adjustment program being administered by EDA with funds made available through the Defense Authorization Act and the Defense Appropriations Act. The report urged EDA and the Office of Economic Adjustment to give consideration to using these funds in cases of military base closures where the land and facilities are being transferred for use by an educational institution.

Specifically mentioned in the report was Fort Ord which is located on the Monterey Peninsula in California. Of significance is the proposed use of some of the land and facilities at Fort Ord that will be available for transfer to

establish a comprehensive 4-year institution of public higher education. The California State University is proposing to use this site for the location of a 25,000 full-time student, residential campus with a central academic focus on the sciences and languages. Of critical importance to the establishment of such a campus is the transfer of not only the land and barracks to be converted into academic lecture and laboratory space, but the housing for conversion into dormitories and faculty residences. Without these facilities, especially the housing, the location of a campus on the Fort Ord property is not feasible or reasonable.

In order to develop the site and facilities to a point which would accommodate academic facility and housing requirements, these facilities would have to be brought up to code to meet current seismic, fire/life/safety and ADA regulations. Renovating, rehabilitating and converting these academic and housing facilities would have an economic impact on the local community through the purchase of goods and services, including the use of local skilled and non-skilled workers and the purchase of materials for construction. Even after the development and buildout stages, there will be considerable residual economic impact on the community.

It is important that as we move to close and downsize our military bases, we examine carefully the impact on the local community, and look to projects that present an opportunity to provide a relatively quick turnaround for use of the transferred property and facilities and have a strong potential to hold and retain the economic base of those communities. Establishing an institution of public higher education is one such project. We should be supportive of those efforts which have the potential of positively effecting the economic health of an area which is faced with the loss of a military base, and provide the resources necessary to assure that these projects achieve the anticipated positive results. Projects that have this kind of potential should not be ignored and should be the focus of the kinds of activities funded through the EDA with defense appropriations. I believe that with such a focus, the outcome can be nothing but beneficial to all involved.

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

Mr. SPEAKER pro tempore (Mr. RICHARDSON). The question is on the motion offered by the gentleman from Pennsylvania [Mr. KOLTER] that the House suspend the rules and pass the bill, H.R. 4157.

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. KOLTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

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

There was no objection.

□ 2300

## CHICAGO'S 1992 QUINCENTENNIAL COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, this year, on Monday, October 12, on the 500th anniversary of the discovery of America by the great Italian explorer, Christopher Columbus, the Joint Civic Committee of Italian Americans once again will sponsor the Chicago Columbus Day parade, the greatest patriotic parade in the city of Chicago, celebrating the 500th anniversary of the discovery of America by Christopher Columbus. The theme of this year's parade is: "A Tribute to Christopher Columbus—the Quintessential Explorer," and will emphasize the mingling of peoples, sharing of civilizations and emergence of new nations that took place in the Western Hemisphere as a consequence of Columbus' achievement.

This year we are delighted that film, television, and recording star, Frankie Avalon, will be joining us as the guest of honor. Other participants in the parade will include Mayor Richard M. Daley of the city of Chicago; Gov. Jim Edgar of the State of Illinois; Anthony Bottalla, chairman of the Quincentennial Columbus Day Parade; Dr. Stefano Cacciaguerra, Consul General of Italy; Hon. Jose' Maria deAristegui, Consul General of Spain; Dominic DiFrisco, president of the Joint Civic Committee of Italian Americans; Michael Coli, chairman of the board of trustees of Joint Civic Committee of Italian Americans; and many other civic and political dignitaries, as well as myself.

I understand that Mayor Daley will issue a proclamation next week, and Governor Edgar and President George Bush have already issued proclamations commemorating the 500th anniversary of the discovery of America by Christopher Columbus. The text of these proclamations follow:

COLUMBUS DAY, 1992

A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A half-millennium ago, one man who dared to defy the pessimists and naysayers of his day made an epic journey that changed the course of history. That man was Christopher Columbus, and the account of his first voyage to the Americas provides us with timeless lessons about faith and courage in the face of the unknown, about the power of individuals to make a difference, and about the rewards of cultural and commercial exchange among nations.

Behind the larger-than-life legends that have evolved around Columbus is an ordinary, fallible man who achieved extraordinary, unforgettable things—and through qualities that any of us might well emulate today.

As with all progress, Columbus' great journey began with learning and hard work. Before he became a master mariner, Columbus was first a diligent student and deckhand who gained his knowledge and skills in Lisbon, then Europe's leading center of overseas exploration. Thus it was with both a strong foundation and a profound sense of higher purpose that Christopher Columbus set sail toward the horizon. If we are to continue to cross new frontiers today, we must not only cherish knowledge and learning, as did the peoples of the Renaissance, but also have faith and courage in the face of the unknown.

Although Columbus was slow to shrink from ridicule and adversity, he was quick to seize an opportunity; and when the Spanish monarchs Ferdinand V and Isabella I agreed to support his daring enterprise, this brave son of Genoa quickly readied the *Niña*, the *Pinta*, and the *Santa Maria* for their long ocean voyage. The story of Columbus is, therefore, a fitting prologue to our American narrative, for the history of the United States is filled with accounts of individuals who made a difference because they had the freedom, the opportunities, and the wherewithal to do so.

Columbus' first voyage to the Americas took just 33 days, yet it refuted centuries-old myths and transformed the lives of generations to come. The great encounter that was made possible by Columbus and his crew linked peoples on both sides of the Atlantic in a long and fruitful exchange of knowledge, resources, and ideas that continues to this day. Hence, on Columbus Day we celebrate both the rich heritage of America's native peoples and the development of the United States as a Nation of immigrants.

Finally, I am pleased to note that in many schools, teachers and students are planning to observe this Columbus Day with a special celebration of the 100th anniversary of our Pledge of Allegiance to the flag. Written in honor of Columbus Day a century ago, the Pledge has inspired generations of Americans to a greater love of country. As we celebrate the legacy of Columbus and the diverse cultural heritage of the United States, it is fitting that we also recall our many blessings—and responsibilities—as "one Nation, under God, indivisible, with liberty and justice for all."

The Congress, by joint resolution of April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), has requested the President to proclaim the second Monday in October of each year as "Columbus Day."

Now, therefore, I, George Bush, President of the United States of America, do hereby proclaim October 12, 1992, as Columbus Day. I encourage all Americans to observe this day with appropriate ceremonies and activities. I also direct that the flag of the United States be displayed on all public buildings on the appointed day.

In witness whereof, I have hereunto set my hand this first day of October, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.

GEORGE BUSH.

PROCLAMATION

Whereas, Christopher Columbus and other distinguished Italians have played a significant role in the growth of civilization; and

Whereas, the strong traditions and rich culture of our Italian-American citizens are recognized by many Americans; and

Whereas, Italian-Americans have contributed greatly to Illinois' arts, politics, sports, and socioeconomic life; and

Whereas, in October, the Joint Civic Committee of Italian Americans (JCCIA) will celebrate Italian Heritage Month with a variety of activities, including a parade on October 12;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim October 1992 as Italian Heritage Month in Illinois.

Mr. Speaker, Chicago's Columbus Day celebration will begin at 10 a.m. with a concelebrated mass at Holy Name Cathedral, 730 North State Street, Chicago. Arrangements for this year's mass have been made by the Reverend Lawrence Cozzi, C.S., chairman of the religious program and organizations committee, and Rev. Donald Craig. The main celebrant will be His Eminence The Most Reverend Joseph Cardinal Bernardin, Archbishop of Chicago.

Concelebrants at the mass will include: Rev. Lawrence Cozzi, C.S., administrator of Scalabrini Village, the Italian American Old Peoples Residence in Northlake, IL; Rev. Nicholas Marra of St. Lucy's Church in Chicago; Rev. Vincent Zarlenga of St. Vincent Ferrer in River Forest, IL; Rev. John DiVita, Our Lady of Pompeii Church, Chicago; Rev. Gino Dalpiaz, director, Italian Cultural Center, Stone Park, IL; and Deacon Frank DeVita, Divine Providence Parish, Westchester, IL.

An introduction before the mass will be given by Theresa Petrone, the coordinator of this year's parade and the cochairperson of the programs and arrangements committee.

Lectors will be JoAnne Spata, president of the JCCIA women's division and Naomi Serpico, president of the JCCIA west suburban women's division. Prayer of the faithful will be offered by Norman Boccio and Ben Affetto. Lori Ardito, president of the JCCIA young adult division, will be the commentator.

Norman Boccio will be the carrier-of-the-cross, and members of the offertory procession will include Lisa M. Amendola, Melrose Park, IL, queen of the Columbus Day parade; Phil Sciacqua, who will portray Christopher Columbus in this year's parade; Marie Palello, executive secretary of the JCCIA and chairperson of the bands, marchers, transportation, and floats committee; Marge Porcelli, secretary of the JCCIA and Mary Spallitta, chairperson of the authentic Italian costumes committee.

Music will be provided by the Holy Name Cathedral choir. Serving as ushers will be Nick Bianco, John DeBella, Michael Palello, Lawrence Spallitta, and Ron Onesti. The Fourth Degree Knights of Columbus will serve as the honor guard, including Michael Gill, master, fourth degree, and Joseph Nardi, admiral, LaSalle Assembly.

The 2-hour parade will step off at Dearborn and Wacker Drive in Chicago at 12:45 p.m. It will be televised live by WGN–TV, channel 9, and via delayed telecast by WLS–TV, channel 7, from 1 to 2:30 p.m. on October 18. Narrating the telecast for WLS–TV will be MaryAnn Childers and Jim Gibbons, and narrating for WGN–TV will be Tom Skilling, meteorologist, joined by Dominic DiFrisco, president of the JCCIA and Theresa Petrone, vice chairman of the board of trustees of the JCCIA. Both this year are also serving as chairpersons of the program and arrangements committee.

Over 200 floats, bands and marching units will participate in this gala celebration. Included in this group will be: Fort Sheridan Army Band, Great Lakes Training Center Navy Band, Alden Hebron HIgh School and Middle School Band, American Flag Coalition Marchers, American Indian Center Marchers, Amundsen Youth Motivation Band and Marchers, Bloom Trail High School Band, Bolingbrook High School Band, Boy Scout Troop 63—Drum and Bugle Corps, Bridgeview Starlets Baton Marchers, Brother Rice High School Marching Crusaders, Carl Sandburg Tiger Band, Cass Junior High School Marching Band and Flag Corps, Channahon High School Band, Chicago Amerital Unico Marchers, Clinton Junior High Marching Band, Connie's Pizza Marchers, Christopher Columbus Elementary School Marchers, Crystal lake South Marching Band, Curie High School Marching Band, Doll Horse Training Stable Costumed Riders, Duconia DuPage County Italian American Club Marchers, Englewood All Star Gladiators, Fastbreak Freestyle Trick Team, Flashie the Clown and Flashie, Jr., Friends of Aurelia Pucinski Marchers, Flirtette Twirlers Baton Corps, Fremont School Marching Band, Gioia and Rosary College Italian Club Marchers, Grimmer Middle School Band, Holy Cross Crusader Band, Hinckly Big Rock Marching Royals, Hubert H. Humphrey Middle School Band, Independence Junior High Patriots Band, Italian-American Labor Council of Greater Chicago Marchers, State of Illinois Italian-American War Veterans and Ladies Auxiliary Color Guard and Marchers, Italian Catholic Federation Marchers, Italo American National Union Marchers, Italo-American Soccer Club—Maroons and Ladies Club Marchers, Jane Addams Middle School Band, Joliet Central High School Band, Justinian Society of Lawyers Marchers, Lithuanians of America Marchers, Lakeview Betterment Club Marchers, Lane Technical Marching Band, Lincoln Park High School Marching Band, Lockport Township High School Band, Lucchesi Nel Mondo Association Marchers, Maine South High School Italian Club Marchers, Mariners Black Sheep Squadron Color Guard, Marist High School Redskin Marching Band, Marshall Lindsey Dancing Majorettes, Mazzini Verdi Club Marchers, McHenry Warrior Marching Band, Mokena Junior High School Marching Meteors, Mother Theodore Guerin High School Italian Club Marchers, Monico's Marchers, NAS Glenview Color Guard, Near Northwest Civic Committee Boy Scout Troop 59, New Frontier of Culture Band, Italian Club Notre Dame High School for Girls Marchers, Norwegian National League of Chicago Marchers, Oak Lawn Community High School Marching Band, O'Quinn Gladiators, Plano High School Cheerleaders, Porter Township High School Band, Prospect High School Italian Club, Puerto Rican Congress of Mutual Aid Marchers and Dancers, Queen of the Universe Marching Band, Resurrection High School Marchers, Riverside Brookfield High School Band, Rogers High School Raider Marching Band, St. Francis Borgia Baton Corps, St. Joseph Men and Women's Auxiliary Marchers, Saints of Soul Community Youth Band, St. Lawrence Queen of Peace High School Band, Shabbona High School Marching Band, Spanish Association of the Midwest, South Shore Drill Team, Somonauk Marching Bobcats, Springfield High School Marching Band, TNT Marching Band, Troy Junior High Marching Band, Warrior Marching Band, World Apostolate of Fatima—Blue Army U.S.A.—Marchers, Giochi I. Della Gioventu Marchers, Oak Park River Forest High School Italian Exchange Students from Italy, Blue Knights Law Enforcement Motorcycle Club, Elston High School Band, Chicago Vocational High School Band, J.J. McCarthy Reserve Center 4th Marine Division Color Guard.

Other floats will carry members of the Italian-American community wearing traditional costumes from various regions in Italy, coordinated by Mary Spallitta, chairman of the costume committee. In addition, featured in the parade will be Phil Sciacqua, portraying Christopher Columbus, and Angela Petrone, portraying Queen Isabella of Spain.

Congressman MARTY RUSSO, past parade chairman, will serve as grand marshal of the parade, and Louis Rago will serve as parade marshal. Other chairmen and cochairmen include: Pat Naples, chairman of the quincentennial committee; Ann Sorrentino, chairman of the quincentennial cuisine culture committee; Rev. Lawrence Cozzi, C.S., chairman of the religious program.

The television sponsors of this year's parade include: Ferrara Pan Candy Co.; Hilton Hotel Corp.; Alitalia Airlines; American United Cab Co.; Commonwealth Edison; Joe Gentile Chrysler Plymouth; Dominick's Finer Foods; Anheuser Busch, Drury Lane, Oakbrook; American Airlines, and Celozzi-Ettleson Chevrolet dealers.

One of the highlights of the Chicago Columbus celebration is the selection each year of the queen of the parade. Judged on her beauty, poise, and personality, Lisa M. Amendola was chosen to reign as this year's Italian-American community queen. Members of the queen's court include: Rosa Blasi, Mount Prospect, IL; Lisa Marie Chesters, Hanover Park, IL; Ann Helene De Julio, Chicago, IL; Dina Marie Fazio, Elmwood Park, IL; Tara Fonsino, Arlington Heights, IL; Paula Piazza, Chicago, IL; and Elena Ventrella, Addison, IL.

The chairman of the queen's contest is Joseph Bianco. Judges for the contest include: Carlo Beninati, portrait painter; Gloria G. Coco, associate judge of the Circuit Court of Cook County; Maria Paonessa, owner of Maria Paonessa Salon 2000; Gianpaolo Borgna, regional manager, Central USA, passenger division for Alitalia Airlines; Dave McBride, news director for station Q–101; Rose Becker, president and owner of Mother/Daughter Fashion Design Team, and Rosemarie Andolino, 1988 Italian-American queen for the Columbus Day parade. Prizes for the 1992 queen are a roundtrip to Italy donated by Alitalia Airlines; a $1,000 cash award given by the Joint Civic Committee of Italian Americans; a $250 cash award given by Greater Chicago UNICO; a wrist watch donated by Metro Sales, an oil portrait donated by Carlo Beninati; a gift certificate from Chicago to Chicago, River Forest, IL; a scholarship to John Paris Modeling School; an alligator briefcase donated by Theresa Petrone; and a beauty treatment donated by the Maria Paonessa Salon 2000.

The Joint Civic Committee of Italian Americans, under the able leadership of its president, Dominic DiFrisco, chairman of the board of trustees, Michael Coli, and executive director, Fred Randazzo, is comprised of more than 65 Italo-American civic organizations in the Chicagoland area and sponsors the Columbus Day parade and related activities. Founded in 1952 to fight prejudice and discrimination toward Italian-Americans, the Joint Civic Com-

mittee of Italian Americans has grown over the past four decades into a formidable organization for addressing the broad social, cultural, and educational concerns of more than one-half million Italian Americans living in the metropolitan area of Chicago.

The quincentennial Columbus Day celebration will close with a reception at the Como Inn Restaurant in Chicago at 3:30 p.m., in honor of the guests, the officers, the committee chairmen, and members who are participating in making the 1992 quincentennial Columbus Day parade a monumental success.

On this 22d celebration of Columbus Day as a national legal holiday, as the honorary parade chairman of the quincentennial Columbus Day parade, I would like to take this opportunity to commend the members and officers of the Joint Civic Committee of Italian Americans for their outstanding efforts in making this year's quincentennial Columbus Day parade a memorable and exciting event.

The officers and members of the 1992 Columbus Day parade committee are as follows:

1992 COLUMBUS DAY PARADE COMMITTEE

Columbus Day Parade Committee: Anthony Bottalla, General Chairman; Congressman Frank Annunzio, Honorary Chairman; Congressman Marty Russo, Grand Marshal; Louis Rago, Parade Marshal.

Special Assistants to the Chairman: Fred Bartoli, Mike Epifanio, Dominic Gobel, and Mike Coli.

JCCIA Officers; Dominic DiFrisco, President; Fred Mazzei, 1st Vice President; Thomas C. Baratta, 2nd Vice President; Pat Naples, 3rd Vice President; Joe Annunzio, 4th Vice President; Emil Venuti, 5th Vice President; Ken Kolnicki, Treasurer; Tena Amico, Secretary; Lawrence Spallitta, Sergeant-At-Arms; Fred V. Randazzo, Executive Director; and Rev. Lawrence Cozzi, C.S., Chaplain.

Board of Trustees: Michael Coli, Chairman; Congressman Frank Annunzio, Vice Chairman; and Theresa Petrone, Vice Chairman.

Executive Committee: Leonard Amari, Laurie Ardito, Richard Caifano, John Coli, Rev. Gino Dalpiaz, C.S.; Carl DeMoon, Anthony Fornelli, Sam Garnello, Pat Pavini, Theresa Petrone, Charles J. Porcelli, John Serpico, Naomi Serpico, and JoAnne Spata.

Women's Division Officers: JoAnne Spata, President; Mary Ann Ciolfi, 1st Vice President; Gina Scafani, 2nd Vice President; Tomasina Perry, Recording Secretary; Marie Palello, Corresponding Secretary; Priscilla Laino, Treasurer; and Judi Guzaldo, Advisor.

West Suburban Women's Division Officers: Naomi Serpico, President; Mary Conti, 1st Vice President; Rose McVittie, 2nd Vice President; Libby Hannigan, Treasurer; Dolores Sennebogen, Secretary; Ann Sorrentino, Corresponding Secretary; and Lilia Juarez, Advisor.

Young Adults Division Officers: Lauri Ardito, President; John Peluso, Treasurer; Joe Panzica, Secretary; and Lynn Gigliotti, Corresponding Secretary.

Quincentennial Committee: Pat Naples, Chairman.

Chaplain: Rev. Lawrence C. Cozzi, C.S.

Theme Coordinator: Theresa Petrone.

Religious Programs and Organizations: Rev. Lawrence C. Cozzi, C.S., Chairman; Linda Piatkiewicz, Nick Bianco, Mike Palello, Lawrence Spallitta, John DeBella, and Ron Onesti.

Quincentennial Cuisine Culture: Josephine Bianco, Chairman; Anita Louise Bianco, Marie Palello, Margaret Porcelli, Theresa Petrone, Mike Palello, JoAnne Spata, Fred Randazzo, Marilyn Fredericks, and Nick Bianco.

Authentic Italian Costumes: Mary Spallitta, Chairman; Lilia Jurez, Elena Frigoletti, and Tena Amico.

Finance and Souvenir Book: Margaret Porcelli, Chairman; Marie Palello, Co-Chairman; and Angeline Annunzio.

Floats, Bands, and Marchers: Marie Palello, Chairman; and Margaret Porcelli, Co-Chairman.

Float Personnel: Lawrence Spallitta, Chairman; and Norman Boccio, Co-Chairman.

Television Sponsors: Michael Coli.

Parade Marshals: Louis Rago, Chairman; Mike Palello; Nick Bianco, John De Bella, Neil Francis, and Commander Ettore DiVito.

Reviewing Stand Commentators: JoAnne Spata, Lori Ardito, Robert Allegrini, Mark Farina, and Joe Annunzio.

Staff Photographer: Sam Bruno.

Public Relations: Fred Randazzo.

## TRIBUTE TO SERGEANT MAJOR C.A. "MACK" McKINNEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, C.A. "Mack" McKinney is retiring from his position as Legislative Counsel for the Non-Commissioned Officers Association of the United States of America. I want to pay a well-deserved tribute to Mack for his many years of dedicated service.

I had occasion recently to reexamine Mack McKinney's biography. I never realized it before, but in one way or another, Mack has spent his entire adult life either in or working for the Military.

Born in Indiana, in 1925, he entered the U.S. Marine Corps in 1942, at the height of the Second World War. After graduating from Radio Operators School, he saw action in the Pacific theater where he participated in the invasions of the Marshall Islands and Okinawa.

Following the war, Mack had a succession of assignments, each entailing greater and greater responsibility. Among these were his assignment as the first chief of Military Police of the newly opened Marine Corps Training Center, 29 Palms, CA in 1952. Thereafter, he was promoted to Master Sergeant and was given a succession of First Sergeant assignments at ever larger commands. Somehow, in between these assignments, he found time to get married, become a Grand Knight of the Knights of Columbus, and serve both the Corps and his community in a variety of positions.

During the Vietnam war, Mack served as the camp Sergeant Major of 4th Logistical Command, Red Beach in South Vietnam.

Following the war, he was assigned as station manager of the Marine Corps recruiting station, San Antonio, TX. It was in Texas that he first became actively involved with the Marine Corps League. There, through his efforts he would reestablish the league's presence, would be elected chairman of its national convention and its first department of Texas Commandant.

In September 1971, Mack retired from his beloved Marine Corps and commenced his second career as Legislative Director of the Non-Commissioned Officers Association [NCOA]. He was responsible for opening the association's first Washington office in Arlington, VA and eventually guided the association's efforts on Capitol Hill where he inaugurated the now famous NCOA Congressional reception.

In his role as Legislative Director of the NCOA, he became the voice of the enlisted person to Congress. His testimonies in over 100 hearings had a profound effect on how Congress viewed enlisted personnel in all services. Among his major accomplishments in this role were his efforts to secure passage of a home loan program that restored eligibility to veterans when they purchased second or subsequent homes; the successful fight for enlisted separation pay, an 18 year effort which finally bore fruit in 1991; and, his efforts in securing passage of much needed changes to the survivor benefit program and CHAMPUS. Perhaps the greatest accomplishment came in 1981 when Congress was convinced to pass a targeted military pay raise focused on the top three enlisted grades to relieve the compression in the pay tables.

Through his stewardship, the Non Commissioned Officers Association played a vital role as staunch advocates of legislative initiatives to maintain readiness and improve the quality of life for all members of the military community—active, reserve, and retired, plus their families and survivors.

In recent years, Mack played an active role in guiding the legislative efforts of the military coalition, a nationally recognized group of 24 military organizations representing some 3½ million people. I won't describe all of his accomplishments in this role, but will briefly focus on the few to illustrate the breadth of his concern for military members. He forcefully supported strengthening the underpinning of the Montgomery GI Bill and thus provided a solid foundation for our Nation's future leaders by providing the opportunity for a college education for more than 1 million young men and women who otherwise might have been denied that opportunity. Mack was ever mindful of the adverse effects on morale and retention caused by broken commitments and inadequate compensation. He always stood up for and championed the causes of fairness and equity. His leadership efforts to defeat the imposition of user fees in military health care facilities, to preserve COLAs and to provide adequate military pay raises for all personnel are especially noteworthy. Most recently, he fought for and helped win the battle for a transition plan that provides a benefits package for those personnel and their families who are prematurely forced out of active service as a result of the dramatic force drawdown presently underway.

I am sure you will all agree, the word leadership is often applied to those who

do not deserve it. In Sgt. Maj. Mack McKinney's case, just the opposite is true. He has been, in every sense of the word, a leader: in the Marine Corps, the NCOA, the Marine Corps League, the Military Coalition and the entire active and retired community. Our wishes go with him and his wife, Rosemarie, for an active retirement and continued success. From this Army man to a Marine's Marine—Semper Fi, Mack!

## THE ROLE OF THE PRESIDENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentlemen from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, by way of letting people who follow the electronically covered proceedings of this House know something about the Congressman that is going to be addressing them for the better part of this hour, let me say something about when the gentlemen from New York [Mr. OWENS] and I first crossed paths, and what an honor it is to be speaking on this floor and seeing you before me at a little higher level, the way I watched you when I was 30 years of age and you were 29, speaking in front of the Lincoln Memorial preceding Dr. Martin Luther King, Rev. Dr. Martin Luther King, on August 28, 1963.

It is amazing how we meet or see people in life and our paths come to cross again. I never dreamed I would have the honor of serving with you in this distinguished body. I slept out in that parking lot in August 1954, 9 years before I saw you give a stirring address as a dedicated young civil rights worker, trying to change the history of our beloved country, and I would say to the gentlemen that he certainly did.

When I was out in that parking lot at 21 years of age, midway between my T–6 pilot training at Bartow, FL, and going to jet school at College Station in Brian Air Force Base, a base that was built to serve the great Texas A&M Aggies that were going into World War II at a tremendous rate, I swore out in that parking lot to my three friends, one of whom died giving his life for his country in Vietnam, that I was going to return here some day as a U.S. Congressman.

That great march in August 1963 was about the most upbeat I have ever felt about my country and its potential for the future. I was there out of respect for the fighter pilots that I had flown with who were of African-American descent: the man who checked me out on F–100's, Bill Wilson, who is now a medical doctor somewhere in this country, and went through medical school. He was from Ohio, as I recall. Ed LaBelle, who flew in the 21st Squadron next door under jet ace Steve Bittinger, who I mentioned last night is following these proceedings of the House and my special orders.

I just want to tell the Members a story that happened later in the year that maybe will help people understand the incredibly high esteem that I have for the office of President of the United States.

When President John F. Kennedy was shot, I was home writing a screen play about the first Americans that were in Vietnam. My screen play was called, "The Thirteenth Marine," and then the 82d Marine. I was going to make him a man from the 82d Airborne who was the 82d man killed in Vietnam.

When it came over the television that President John F. Kennedy, who had restarted the Green Berets, had been killed, there was a short wait and then it was announced that he was killed, I was living in Westwood, CA. I went across the street and made a visit in church, prayed that somehow or other I was hearing an insane Martian landing type broadcast.

I went over and told the sister superior of the grade school where all five of my children were in attendance then, and then came back to the house, and shed many tears. My wife was working as an actress on a movie set. They shut down the set. She came home, watched television all that night. My agent and good friend, Michael Patrick Casey, called me and said, "Why don't we go back to Washington, DC?"

We did, together, We scraped together the one-way fare. He took a bus home. I hitchhiked home on Air National Guard airplanes as an officer. I wore my Captain's uniform, winter blues. It was the first time I had come back to Washington since that march on Washington that you and I were at, Mr. Speaker.

I could not believe what I was witnessing. In front of the White House we waited. The drums began to roll. The President's body came out on the catafalque in the same carriage that had carried Abraham Lincoln more than a century before, almost a century before, and I was standing in front of that White House.

I remember a black family was next to us. The father was holding his little 2-year-old up. His 3-year-old son could not see. I picked him up, put him on my shoulders, and I tell the Members, that memory is burned in my brain more beautifully than any blow-up of any color photograph in my life, standing there in my Air Force uniform with that young black son of that American family next to me, holding him so he could see the President's casket go by.

I said goodbye to the family, ran up on foot to St. Matthew's Cathedral, where my middle daughter was married to Richard Koben that New Year's Eve of 1979, and I cried through that ceremony, cut out of the church early with Michael Patrick Casey, followed the casket across Memorial Bridge, worked our way up around to the burial site of President John F. Kennedy, and I said to my friend, "Mike, I want you to go over and busy those Secret Service people. I want to move out on that knoll so I can see this and remember it the rest of my life."

I moved out on the knoll. I could hear this little controversy behind me when they turned around and saw what I had done. Then these agents started to come out toward me. Just then the music began to play the Star Spangled Banner slowly. I came to attention, saluted, and then they let me alone.

When all of the Members of the then-Congress passed by, and the U.S. Senate, the Supreme Court judges, there was a handsome, tall, spit-and-polished Green Beret colonel who was in command of the honor guard at the funeral. He looked around. The official people had all passed by, and he turned to America and pulled his heels together smartly, and he made a sweeping gesture with his arm, like the gravesite is open to the Nation.

I was the closest person to him on that knoll on the north side of Arlington. I moved down and I, Mr. Speaker, was the first American citizen, other than the official party of the Congress of the United States, the Cabinet, and the Supreme Court Justices, to stand in front of President John F. Kennedy's grave, because I was a Roman Catholic and proud of him as our first Catholic President.

I knelt down, said an Our Father, a Hail Mary, a Glory Be, and a small prayer to St. Joseph, the guardian of families. I blessed myself, stood up, gave what I hoped was the best salute I have ever given in my life, took a step back, and left that scene.

The night before I had gone through a long wait to come into the rotunda and see the President lying in state with a sharp young Coast Guardsman, Marine, Navy, Air Force, Army men in honorable attendance. It took me 2½ hours with Mike to get through that line. When I went through it was like a dream. I was in a daze.

I said, "Michael, I am going to do something. I am going to jump the line here and go through this again," because again, I was in my Air Force captain's uniform and I was able to get through the line a little more quickly the second time. I slowed my mind down and my life down so I could memorize those images of President Kennedy lying where Douglas MacArthur would lie less than a year later, where other Presidents have lain there since; our own Claude Pepper, at almost 89 years of age; where Lincoln had lain in state; all of these great men.

It is because of my utter deep, deep feeling about the importance of the office of the presidency of the United States and the spiritual aspects of this role model, our President, the leader of the free world, the Commander-in-

Chief of all of our young men and women called upon to give their lives in a moment's notice, that I come to this well night after night, keeping these wonderful people here late after a long and tough day and apologizing to them now, and begging their forbearance, because we are going to be adjourning in a few days and I just must discuss the importance of this presidency and why I feel exactly like Colonel Holmes, Eugene Holmes, in that letter released to the press September 7 of last month and virtually ignored coast-to-coast except by a few conservative groups here and there, ignored in the main by all the electronic media when Colonel Holmes said that this young man who had sat in his living room for 2 hours and deceived him by not telling him, not telling Colonel Holmes that he, young Bill Clinton at age 23, had been arranging demonstrations in Washington, DC, here for the Moratorium Committee in 1969, the summer thereof.

□ 2310

That he had used a ruse involving a created naval officer's commission the year before to get to go off to graduate school when there no longer was a 1-D deferral for graduate school, and then arranged demonstrations in England during his first year when he actually went to class, and that he intended to go back and arrange demonstrations in England, a foreign country that was sending his merchant marine ships that they could not control carrying supplies to help shoot down our airplanes, kill our men in the jungle, and slaughter women and children in villages up and down South Vietnam, Laos, and Cambodia. He did not tell Colonel Holmes what he planned to do in England. He certainly did not tell him that he planned to do a sweep of European cities, including Oslo where we have him established to be on December 12, and Moscow where his own staffers down there in Arkansas, in between lying and saying he never went to Moscow, and they are now admitting dates. His guru, a lady who has been his constant associate and chief of staff when he was governor, and who has now taken over as chief researcher, but that really means she is the last word and who organized east Texas with Governor Clinton back in 1972 for Senator McGovern running for the presidency, this lady called up to New York and at 7:30 in the morning from Arkansas to talk to my former colleague, Ed Koch, and to tell him that I was making up things, and distorting facts.

So before I turn this special order over to a U.S. Air Force colonel who spent almost 7 years in Hanoi, and who was severely tortured, and who spent between 3½ and 4 years in solitary confinement without ever seeing the face of another American, I just want to set the record straight for people who may be tuning in tonight for the very first time, Mr. Speaker, and I want them to know this, that when his campaign senior staff says that I am making up things, and I have no documentation, let me talk about four dates here.

October 15, 1969, Clinton, exactly half of his 46 years, then 23, organized antiwar demonstrations in London, England. One footnote. Ed Koch joined the Army when he was 18, just like George Bush. George Bush was born on June 12, 1924 and Ed Koch was born on December 12, 1924, precisely 6 months younger than George Bush, and they both joined at 18. Ed Koch, while he was still a teenager, wore the three stripes of the Army sergeant in combat in Europe, and he was out of the Army at 20 years of age. Actually the war was over while Ed Koch, former Member of Congress, former mayor of New York City for three terms, was still a teenager. I wonder if Ed Koch, and I am going to ask him this in the morning if he will have the decency to put me on his show, and I know he will, he is a straight shooter, and I am going to ask him, "Ed, did you feel like a man at 19," having led several platoons of men as an Army sergeant as an assistant platoon leader, or "Did you feel like a boy," like Clinton at age 23 when he did all of this. Boy is how he described himself to Ted Koppel on Lincoln's Birthday this year, February 12.

Back to where I left off, October 15, 1969. Clinton organized antiwar demonstrations in a foreign country, England, London, Grosvenor Square in front of the U.S. Embassy.

What is our source? Clinton's December 3, 1969 letter that I mentioned a minute ago to Col. Eugene Holmes, which Clinton claims, "I wrote from England." Clinton said that "After I left Arkansas last summer," 1969, "I went to Washington to work in the National Headquarters of the Moratorium. Then to England to organize Americans here, in England, for demonstrations here." He repeats "here" twice.

October 15 and 16. Clinton gave me those dates. I am sorry that I did not come across this months ago. November 16, 1969. Clinton organized antiwar demonstrations in London, England. Source? Again, Clinton's December 3, 1969 letter to Colonel Holmes, and I will put that letter in the RECORD at the end of my remarks as a reference point for anybody who wants to get ahold of this CONGRESSIONAL RECORD. I will also put in there Colonel Holmes's letter to America which has been virtually ignored by the dominant media culture, dated September 7, last month.

In addition to Clinton's own letter to Colonel Holmes in December 1969, there is Clinton's role as a leader in this November 16 demonstration, as described in the book "Peace Eyes" by Fr. Richard McSorley, far leftwing radical priest who still holds court down at Georgetown, a school that I admire some of the time, and his partner down there, our former colleague for 10 years, Father Drinen, who was also a big apologist for Hanoi, and all of the Communist countries around the world, as a matter of fact. I wonder if he has changed his song since the collapse, the dissolving of the evil force it was, of the motherland to Lenin and Stalin, and communist Moscow. I have not seen him around lately. We would cancel each other out on votes on morality and religious issues, particularly life. I called him Father Death most of the time, because we overlapped during four of his 10 years.

The fourth date, on or about December 12, 1969, Clinton arrived in Oslo with Father McSorley where they met with the peace movement. I use that word the way they did not use it, sarcastically, peace movement activists. Where did I get again the information? Again from "Peace Eyes" by Fr. Richard McSorley. What I discovered today by reading this book, and I have it right here, that the title of the book published in 1978 was taken out of the mouth of Bill Clinton, because Clinton commented in Norway to Father McSorley, "Isn't this a great way to see a country, through the eyes of all of these peace activists," most of whom were pro-Hanoi, pro-war activists as long as it was the Communists pursing the war from the north to the south, trying to conquer the south, just like the Communists pursued the war from North Korea into South Korea to conquer the south and kill their own people. So the title of the book comes out of Bill Clinton's observation that December.

Now December 31, 1969, through the admissions of his own senior staff to some journalists, while they are telling other journalists lies, that I am lying here on the House floor, they admit Clinton was in Moscow. The best reference that I can send to anybody who is interested, Mr. Speaker, is a Knight-Ridder newspaper article, after I had begun this reaching out with the truth to my fellow citizens, a Knight-Ridder article September 25, 1992, and in a June 12, 1989 Gazette article, 3½ years ago the Arkansas Gazette, retitled the Arkansas Democrat Gazette, where Clinton acknowledged he traveled to the Soviet Union and described his visit as a friendly time, a good atmosphere, a period of detente. And I put that letter in the RECORD earlier, and anybody who is interested can get that.

Attached is an article from the October 14, 1969 Times of London which describes Hanoi's support for the nationwide moratorium in England. Here the moratorium was on its own, I guess. This was the rally held on October 15 that Clinton bragged in his letter to Colonel Holmes, "I have been having these demonstrations. You probably

wouldn't like me now if you knew that."

Colonel Holmes says in his letter last month Clinton would never have qualified to be an officer in the military in any of our services, ever, to this day. And now he is set up to be Commander in Chief.

In a letter to Colonel Holmes, Clinton acknowledged he worked at the National Headquarters of the Moratorium in Washington, DC, during the summer of 1969, and then went to organize demonstrations in London October 15, November 16, and I found out on also the 17th and the 18th. Hanoi's support was directed knowingly or unknowingly by Bill Clinton and his fellow organizers in Grosvenor Square, and probably at Oxford, and who knows at what other places.

Here is the article from the Times of London, one of the oldest papers in the world, October 14, the 22d anniversary of us breaking the sound barrier, guys, October 16.

"Hanoi salutes U.S. antiwar campaign from Albert Dupuy." Hanoi, October 13, Now here is an Agency France press release from Hanoi: "United States movement of protests against the Vietnam War is to reach its culmination on Wednesday with a nationwide moratorium, and it has been enthusiastically welcomed in North Vietnam, here and in London, and in Oslo and in Stockholm." The newspapers are filled with articles accompanied by photographs showing antiwar demonstrations, and in particular the clashes in Cleveland and Chicago. He is still reading Vietnamese words. In an article headlined "Hail to the Autumn Struggle," Hoang Minh Gian, the Minister of Culture who is chairman of the Vietnamese Committee on Solidarity, a member of the Secret Police, obviously, full title Vietnamese Committee on Solidarity, and the American people, we had POW's tortured to force them to meet with these jerks.

He expressed gratitude and encouragement to the dear friends of the Vietnamese in the United States denouncing Nixon's policy of prolonging and intensifying the war while hanging on to the puppet government of south Vietnam. That was the French reporter, Mr. Depuy; Mr. Gian wrote the Vietnamese warmly acclaim and support with all their strength the struggle engaged in by opponents of the war, and he continues that we wish to have relations of friendship and equality with the people of the United States; we do nothing which could stain the honor of the United States. It is the United States which sends troops to conduct aggression against South Vietnam. We demand that they be withdrawn completely, rapidly, without conditions, leaving the South Vietnamese people to settle their own affairs. That was the Agency France Presse. Bob Dornan's comment: You mean, to kill them, to assassinate them, to see them drown at sea, to rip their teeth out of their face if there is gold in them, and the killing fields of Cambodia, millions of bodies and skulls strewing the roadsides from Phnom Penh to Vietnam and west from Phnom Penh to the Thai border. That is how the savage Communists wanted to be left to their own devices.

Now, I have got enough stuff here for a special order tomorrow night and the next night. I am going to put in the CONGRESSIONAL RECORD what I call Bill Clinton's run from honor, a story of deception and deceit which is a carefully worked out, and I will be honing it and updating it, record, a chronology, from August 19, 1964, when Clinton first registers for the draft at 18 years of age all the way up to September 7, 1992, Colonel Holmes' letter. I am going to put that in the RECORD at the end.

Now, my good friend, the gentleman from Texas [Mr. JOHNSON]; SAM, I do not want to be corny here, and I might start to interview you, because, you know, I did for a living for 7 years before I came to Congress, and that is what enabled me to slip over at my own expense seven times to Vietnam after my first trip, making eight trips, when I went over delivering a rescue seaplane out of March Air Force Base, and dying to be back in the fighter cockpit following into battle the likes of you.

SAM, how many years did you have in Austin as a State legislator?

Mr. JOHNSON of Texas. Nearly 8, 7½.

Mr. DORNAN of California. You won a special election to come here when our pal, Steve Bartlett, became mayor of Dallas?

Mr. JOHNSON of Texas. Right. One of the honors of my life.

Mr. DORNAN of California. SAM, you told me the other day that you got shot down, and then I am just going to turn it over to you, that you got shot down on a mission where you sat waiting for a C–130 to land from somewhere, I guess Ton Son Nhut or Saigon, to bring you your bombs? That is how poorly run the war was. You were sitting in an F–4 waiting for his bombs, "DUKE," to come on a C–130 and be unloaded, taken over on carts by young kids, strapped to your wings, and on that mission, just tell me how you got shot down and what date.

Mr. JOHNSON of Texas. Well, it was April 16, 1965.

Mr. DORNAN of California. My wife's birthday.

Mr. JOHNSON of Texas. I am sorry, 1966. I was in Saigon working for General Westmoreland, a friend of ours.

Mr. DORNAN of California. So this was your second tour?

Mr. JOHNSON of Texas. Right; right. Before we get into this, you were talking about the great black heritage that we have: Chappie James, and you may have known him, Mr. Speaker, he was a great friend of mine and a leader in the Air Force. You knew him, I know.

Mr. DORNAN of California. First four-star African-American general in the Air Force and one heck of a human being and a natural fighter pilot filled with bravado and fun.

Mr. JOHNSON of Texas. He was a great, great guy. You know, the reason I bring the name up is because you were talking about that heritage earlier, but he more or less bid me adios when I left the United States to go back to Vietnam the second time before I got shot down, and when I got out, the first call I had when I set foot on the land of this United States of America was from Chappie James right here in Washington, DC——

Mr. DORNAN of California. Wow.

Mr. JOHNSON of Texas. Welcoming me back, soldier, you know.

Mr. DORNAN of California. Sure.

Mr. JOHNSON of Texas. And I just could not resist bringing that to your attention, too, Mr. Speaker, because it was one of those things that we cherish in our American heritage and what makes our President so important to what we do.

You asked, I was shot down by ground fire, probably one of those radar guns that that guy up in New York, now, that stayed in the Soviet Union for 40 years developed for the Russian hierarchy.

Mr. DORNAN of California. We had a press conference about him the other day out here.

Mr. JOHNSON of Texas. Yes; yes. Anyway, we had been on a road reccy and ended up over a truck park, and it was a big one, and they were ferrying boats across the river, and we were going to lay the bombs in on those ferries and, you know how that is done, and I sent my wing man up, and I went down and got hit. It was that simple.

Mr. DORNAN of California. SAM, or radar, Soviet-built, radar-directed flak?

Mr. JOHNSON of Texas. Yes. I do not know, quad 40's or 50's or something, and they, you know, I do not know, I took three or four hits, enough to lift us off the seat, and we were carrying napalm at the time, because that was one of the only loads they happened to have on that C–130 you described a little earlier, so we were down about 30–40 feet off the ground when we first took hits and managed to pull up going about 650 knots.

Mr. DORNAN of California. Did your back-seater get out?

Mr. JOHNSON of Texas. You know, that is another whole story in itself. I know, I saw our wing man, "DUKE," "DUKE" the Great over here, CUNNINGHAM, come in, and the back-seater, of course, in those days, you each had your own ejection handle, but later they modified the airplanes, as you know, so the front-seater could pop them both out, but the guy tried to get

out, and you would not believe it, BOB, but he pulled the handle and was sitting there, "Duke," looking at nothing, but a cord about that long, and the seat did not fire, and it mesmerized him. He did not get out. I told him again to get out, and he did not, so I went out. When I did, it shook him to his senses. He managed to push himself down in the seat, and we were at negative g. It has gone full forward, and got this, and I sensed, and I went through Army jump school, so I have a feel for where I was. I was about 800 feet, I think, when I got out.

Mr. DORNAN of California. That will get you about one or two swings.

Mr. JOHNSON of Texas. Yes. The chute popped. It was a hard opening at that speed. I just had time to check it and see it was all right and look down and see him get out before the airplane hit the ground.

Mr. DORNAN of California. As the next step, as to your war story, with a peacetime story, so people understand I know what you are talking about. I went out at 500 knots, 450, and I broke my back from the seat, I broke my hip, and just had a new one a year ago from a hard landing, had about 40 stitches in my face. When you go out, everybody sees ejections in the films, and you are straight and level, you get everything squared away, boom, you are out, but when your aircraft is tumbling or falling like that, that is why so many POW's broke their arms and legs, because when a SAM missle hits you, it turns your airplane into a big piece of junk and shrapnel in the sky, and when you go out at those speeds, you land on the ground and you need medical help, and instead of giving medical help, they used prisoners' wounds to exacerbate their torture.

So did your back-seater make it to the ground OK?

Mr. JOHNSON of Texas. Yes. He broke his back. I think the chute opened just barely in time for him. I broke an arm and a shoulder and a back.

Mr. DORNAN of California. You never got good medical treatment for it ever?

Mr. JOHNSON of Texas. Zero.

Mr. DORNAN of California. Until you got back?

Mr. JOHNSON of Texas. Zero. Well, you know, the Vietnamese are like, I think, most Communists were in those days; they just put on a white smock and became a doctor. Would you like to be a doctor, Dr. BOB?

Listen, I would just like to say how many people remember what they were doing back in 1970. You know, in 1970, that was about the time that the 11 of us who were in Alcatraz put there because they claimed we were threatening to overthrow the Vietnamese Government inside the prison, we were isolated in the prison camp that was stuck down below the surface about 3 feet, believe it or not, right in the middle of their equivalent to our Pentagon, their headquarters in Hanoi.

Mr. DORNAN of California. What rank were you?

Mr. JOHNSON of Texas. I was listed as a major when I got shot down. I was a lieutenant colonel really, and they never picked up on that.

Mr. DORNAN of California. Let me just briefly explain what Alcatraz was: 11 men whom they call hard-headed, Robbie Reisner would have been with you, but he was so severely tortured and ill that they just left him in a lump in his cell. They took two younger jocks that had escaped, Coker and McKnight. The rest of them were Senator Jeremiah Denton, who served 6 beautiful years here, James Bond Stockdale, was he with you?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. He is now the Vice President under Ross Perot.

Mr. JOHNSON of Texas. Yes.

□ 2330

You talked to Ross this morning, did you not?

Mr. JOHNSON of Texas. I did.

Mr. DORNAN of California. Well, since you are his Congressman, there is something I want you to talk to him about.

Mr. JOHNSON of Texas. Let us get this straight, that I am supporting President Bush in this election.

Mr. DORNAN of California. But you did not beat up on your friend Ross, tell him to get out of the race; it is just he knows you are a solid Bush guy and he thought you were going to chew him out.

Mr. JOHNSON of Texas. I told him he had better put his hip boots on because it may get deep before it is over.

Mr. DORNAN of California. I told a story in this House several times over 16 years. One of the 11 men was Ron Stewart, Air Force pilot. He said goodbye to you, God bless you, GBU, with a broom.

Mr. JOHNSON of Texas. Right.

Mr. DORNAN of California. But you never saw him again.

Mr. JOHNSON of Texas. No.

Mr. DORNAN of California. But his remains are home over in Arlington.

Mr. JOHNSON of Texas. We found out when we came on the airplane, Shields told us——

Mr. DORNAN of California. Roger Shields.

Mr. JOHNSON of Texas. Yes. Roger Shields, State Department.

Mr. DORNAN of California. He testified over in the hearings.

Mr. JOHNSON of Texas. Exactly. Just last week.

Mr. DORNAN of California. A few days ago.

Mr. JOHNSON of Texas. Yes. That was the first time we found out what happened to the stores that were on the airplane.

Mr. DORNAN of California. SAM, let me ask you something. It is no secret that I look up to you guys who fought wars behind me, like George Bush, and after me, like you guys. I am stuck in between. I cannot pick my birthdate. But I just want to establish something that is embarrassing to guys like you. DUKE, you grab the microphone because I should have asked you this last night when you said you were going to turn your medals upside down.

Let me ask you: Forget all the service ribbons and commendation medals and good-conduct medals, just give me combat decorations. You were nominated for the Medal of Honor. Let me say politics, politics, what they called after the Pearl Harbor debacle when the Army and Navy could not talk together, I learned a new word years ago, "Army/Navy punctillio." Friction, little bit of jealousies, and, as far as I am concerned, when you are nominated for a Medal of Honor, you got it. So what is your highest decoration?

Mr. CUNNINGHAM. Navy Cross.

Mr. DORNAN of California. One Navy Cross.

Mr. CUNNINGHAM. Two Silver Stars.

Mr. DORNAN of California. Two Silver Stars. How many Air Medals?

Mr. CUNNINGHAM. 15 Air Medals.

Mr. DORNAN of California. 15 Air Medals.

Mr. CUNNINGHAM. Yes.

Mr. DORNAN of California. Purple Heart?

Mr. CUNNINGHAM. Purple Heart.

Mr. DORNAN of California. And you came very close, depending on tides, because you came down in the water, right, on May 10, 1972?

Mr. CUNNINGHAM. That is why I have so much respect for people like SAM. The most fear I ever had in my life was when I was hit by a Soviet surface-to-air missile, called an SA-2. And I did not know if I was going to survive or be a prisoner of war. The most fear I have ever had in my life, SAM, was the thought that I was going to be a POW. There were also two things that they told us that would keep us alive, when we went through POW training at camp. One of those was having a good family back home that you could come back to, and the other was a faith in God. I did not have those then, but I have them now.

Mr. JOHNSON of Texas. God bless you.

Mr. DORNAN of California. How many combat missions did you go to?

Mr. CUNNINGHAM. 299½, BOB. I was shot down on my 300th mission over North Vietnam.

Mr. DORNAN of California. That was a sortie, one sortie you did not sortie, that is the French, out of the area.

What combat mission were you shot down on?

Mr. JOHNSON of Texas. Twenty-five, and I had sixty-five in Korea.

Mr. DORNAN of California. Sixty-five in Korea and twenty-five in Vietnam. It is unusual on the 25th mission that you guys get shot down, it is usually on 1 to 10 and then the odds catch up with them at 80 and 90 or 100.

Mr. CUNNINGHAM. That is the Air Force guys.

Mr. DORNAN of California. Let me just embarrass you for a second, SAM. Your highest combat decoration?

Mr. JOHNSON of Texas. Silver Star; I had a couple of them.

Mr. DORNAN of California. A couple of Silver Stars?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. Distinguished Flying Crosses?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. How many Air Medals? You cannot beat 15.

Mr. JOHNSON of Texas. No, no, I can remember six.

Mr. DORNAN of California. Did they know that you were decorated when they got their hands on you?

Mr. JOHNSON of Texas. No, they did not.

Mr. DORNAN of California. So what did they do? DUKE, if you would bear with me. When they pick you up on the ground and pick up your backseater man—what is your backseater's name? Where is he today?

Mr. JOHNSON of Texas. He is in Arizona, Tucson.

Mr. CUNNINGHAM. Mine was Willy Driscoll.

Mr. DORNAN of California. Your guy in the back, the all-important guy in the back, an Air Force GIB, "guy in the back," when he is looking, lying there with his back broken, do they just load you two guys in a cart, or how did they get you there?

Mr. JOHNSON of Texas. No, no, they kept us separated for the whole time.

Mr. DORNAN of California. You never laid eyes on them until you got out?

Mr. JOHNSON of Texas. One time when we were forced together because the Navy blew up a bridge ahead of us and we could not get across it. So they commandeered a Bhuddish pagoda and put us in there. They kept the guard between us. They were trying to play one against the other.

Mr. DORNAN of California. Right; he has told me this, he has told me that?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. And this is April 16, 1966?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. Do you recall how many planes had been shot down by then?

Mr. JOHNSON of Texas. I was the 69th prisoner of war.

Mr. DORNAN of California. Good grief.

Mr. JOHNSON of Texas. I do not know how many planes had been shot down at that time.

Mr. DORNAN of California. The final figures of reliefees, if you do not count the 24 in the south, it came up to like 690 prisoners?

Mr. JOHNSON of Texas. I think it was 571.

Mr. DORNAN of California. I am sorry, 571 in the north and 24 guys in the south, who actually were rare. Most guys in the south died. One doctor who came back in that 24 said he had over 30 men die in his arms because of maltreatment and bad treatment.

Mr. CUNNINGHAM. Can I make a point, BOB?

Mr. DORNAN of California. Sure.

Mr. CUNNINGHAM. We voted to give the troops our support in Desert Storm. I went on a strike just south of Vinh, it was called Operation Crowd Deep, and we could not get word to go in, Congress would not let us do it. It was overcast. We called back and said we cannot go in over the overcast because of the surface-to-air missiles. And Congress said, they came back and said, "You have those 3 days or none."

So we had to go in. And we lost over 30 airplanes because of decisions here in this body. That is why I think I relished and promised that someday if ever I was in a position to make those changes. Can you imagine with someone like Governor Clinton, who was in the Soviet Union, and both SAM and I were shot down with Soviet weapons. Bill Clinton was in the Soviet Union protesting the same war that we almost gave up our lives for.

Mr. JOHNSON of Texas. Riding trains, eating black bread, galivanting around Moscow, right? Bill Clinton.

Larry Chesle was my backseater.

Mr. DORNAN of California. A young Mormon?

Mr. JOHNSON of Texas. Yes.

Mr. DORNAN of California. He was one who wrote one of the first books that I read out of the 20 books that you gentlemen wrote. Larry's was just a simple one. He was not tortured as much, because he was a junior officer. But his book was the first one that gave me a setting for—what was it called? "Seven Years in Hanoi," just a simple title. Then I began to read the books of the senior naval Air Force officers.

Mr. CUNNINGHAM. One of the best books you can read is by Major James Rowe, who is the same military officer who was killed in the Philippines just a couple of years ago. It is called "Five Years to Freedom." He spent 5 years as a prisoner and then escaped, and I will tell you, it is fantastic.

Mr. DORNAN of California. I got to know Nick Rowe very well because I put him on my show three times in 1969 and 1970, the 2 years that we are discussing here, with Clinton. He had death threats leaving my show sometimes. He was a prisoner from October 1963—we did not even know that we had live prisoners in October 1963. That would be when Mr. Lewis was in the chair, that would be between Martin Luther King march and the month before Kennedy was assassinated, Nick Rowe was captured. Five years later, thanks to the likes of some of these people that Clinton has hired, like David Ishland, his cover was blown that he was not an engineer, that he was a West Point graduate. He was to be executed in the morning. And even though he had escaped 5 times and had been recaptured, obviously he was motivated to go for broke, this was it. He got away. He was out in a field. Nick was short in stature, maybe 5'6" or 5'7". He was in black pajamas. Here comes an Army Cobra about to zap him, and he waves his hands and as dirty as he was, those Cobra guys get down in the weeds, the guy looked at his face and he said, "Whoa." He did not fire, but he did circle around. And that was 5 years later, November 1968. I had him on my television show with his wife about 6 months later. Believe me, he worked his tail off for you, SAM, over and over to get him back.

Mr. CUNNINGHAM. I think this is important. I got a call from the Washington Post today to ask why I thought that you were doing these special orders. People were not aware—we got almost 2,000 calls in the office today, all very supportive, thanking you for what you are doing, BOB. But the press out there has suppressed the truth. And the facts and the figures that are coming across to the American people of Governor Clinton's involvement not only in the antiwar protest but dodging the draft, turning down his responsibility in ROTC, not graduating from Oxford. I did not know those figures or the letter that was written to his draft board. And I told them, I said, first of all, BOB DORNAN is a patriot and a hero in my eyes. Second, he believes in what he is doing because the American people are not aware of the facts and figures. When SAM and I were shot down, Governor Clinton was in the Soviet Union coddling the same Soviets that had KGB, that had interrogators in the prisoner-of-war camps along with Cubans that were interrogating and torturing men like SAM JOHNSON.

Mr. DORNAN of California. Yeltsin, a real hero of the Soviet Union today, who stood on that tank a year ago August, on the 20th or 21st of August, and thought he might die, he stood right there at that same spot where Winston Churchill stood and the Marquis de LaFayette, where MacArthur stood for his good-bye speech, and all our Presidents address us, he stood right there and said, "My predecessors may have brought Americans from Vietnam to the Soviet Union, prisoners that never made it into the Hanoi structure or system of all those satellite camps."

Mr. CUNNINGHAM. And Governor Clinton lauded that kind of action.

Mr. DORNAN of California. And may have been in Moscow when somebody was sitting in the Lupyan Prison.

Mr. CUNNINGHAM. Can you conceive him being President of this country?

Mr. DORNAN of California. Well, I am going to sit down for a minute, because I want you two guys to go back and forth and let this peacetime fighter pilot butt out, but I want to set the scene, and here is what I want you to talk about.

Mr. Speaker, here is a picture of a man named David Ifshin. He was appointed in April to be the Senior Policy Advisor to the Clinton for President Campaign. Here is David Ifshin in Hanoi in 1970, the same year that Clinton was there in January. He is there later in the year. He went through Moscow, a flight to India for refueling, then into Rangoon, a Communist country at the time, nonstop Rangoon to old Hanoi, and here he is standing next to Pham Van Dong, who manipulated the Paris Peace Talks.

Mr. CUNNINGHAM. This guy is with Clinton's staff today, as an antiwar protestor, the North Vietnamese, the same people who were torturing SAM JOHNSON and shooting us down.

Mr. JOHNSON of Texas. Well, he is a close friend, one of his key political foreign affairs advisors, as well as a lawyer, posing for photographs that BOB has just shown you, serving as a mouthpiece for Communist propaganda on Radio Hanoi, denouncing his own country and servicemen.

Ifshin made a radio broadcast urging the American troops to refuse to fight, and he said,

> I realize after this trip to Hanoi that the United States Government does not go to South Vietnam to fight for democracy or to defend the right of the people. They go there and send us to murder the people of Vietnam.

It sounds like what the Communists were telling us there to make one large U.S. military base, not to defend the United States, but to aggressively threaten other countries.

You know, that is an action bordering on treason, not unlike that one of our previous friends, I guess we would call her, Jane Fonda did sitting on top of a gun.

If this latest revelation does not shed some light on the shadows of Bill Clinton's past, I do not know what will.

David Ifshin is Clinton's type of political bad company. Clinton surrounds himself with cronies and liberal revolutionaries.

I do not criticize anyone for not serving in the Armed Forces. Everybody is entitled to their own ambitions and political opinions. That is what makes America American.

But what turns my stomach is these men's blatant disregard for American lives.

Many in their generation took political stands of one sort of another, but they did not go to Russia, the Soviet Union.

You know, the Soviet Union at that time had not even launched a mission to the Moon and we had, and yet these guys stood over there and said how friendly the Soviet Union was to this country.

I mean, both Clinton and Ifshin did that.

They were not friendly to us. They were helping Vietnam fight that war and the Vietnamese told us that we had not gone to the Moon. It was not until I got back and talked to my friend, Buz Aldrin, that I found out what really happened up there.

They said the Soviets had gotten there and the United States did not make it.

It was like them telling us we were going to be there all of our lives when Lyndon Johnson stopped the bombing in North Vietnam.

So I think the difference comes with the character of people. The Democratic nominee for President does not possess the basic integrity to admit he opposed the war, asking for special loopholes and favors along the way, and the Democrats top political advisor, David Ifshin, who committed the ultimate disgrace of putting himself at the service of the Communist enemy.

Mr. DORNAN of California. It is treason, that is flat out treason.

Mr. JOHNSON of Texas. Well, I could go on and on.

Mr. DORNAN of California. Go on, please.

Mr. JOHNSON of Texas. Well, I think the issues are so important to our Presidential race, and the issues are truth, integrity, and the basic values of being an American citizen.

Do you love your country? I do, you do and DUKE does, I know. All three of us, regardless how crippled up we are, we would go fight for it again tomorrow if we had to.

Mr. DORNAN of California. In a heartbeat.

Mr. JOHNSON of Texas. You know, I think we need to take a long look at all our choices for President and make sure that we do not forget who stands for America and who does not.

Mr. DORNAN of California. DUKE, that article I just gave you, is that the London Times one, the one down there with that face of Ifshin, where he looks like Lyndon?

Mr. CUNNINGHAM. We had names when we were pilots, both during the war and after. We call them DRCPD. That is Dirty Rotten Communist Pinko, and because of respect for this House, I will not tell you what D stands for.

But this individual, if we could have had him in our sights along with the other people, the antiwar protestors, BOB, we hated these individuals as fighting men and women in the armed services worse than we did the enemy that we were fighting.

I had more respect for the men that I fought against and we shot down in combat than I did for men like this that Clinton surrounded himself with and Bill Clinton who avoided the draft now is lying about it.

Let me tell you a real quick story. It is about one of SAM JOHNSON'S colleagues when he was a prisoner of war, if I can get through this.

There was a POW that took and knitted an American flag on the inside of his shirt and every time the POW's would get together, he would turn that shirt inside out so that they could meet under that flag.

Well, that was great until the Vietnamese guards broke in and found the man and they saw the shirt hanging over the meeting and they tore it to shreds. They took him out and brutally beat him, some of the same Soviets, same Cubans, they yanked this man for 4 hours, and when they drug his body back in, his bloody body, with broken bones, his friends, his fellow colleagues, and POW's put him over in a corner on a bale of straw. They did not think he was going to survive the night. They went back over in their corner after they had comforted him. They heard a stirring in the corner, BOB, and they looked over and here was that broken body. The POW had drug himself to the floor and started knitting another American flag, and people like Bill Clinton that disgrace this country and people like this—

Mr. DORNAN of California. Ifshin.

Mr. CUNNINGHAM. Ifshin, that he has surrounded himself with, if he sets foot in this Chamber, I will never ever wear those medals and I will turn them face down.

Mr. DORNAN of California. Until we replace him.

Let me focus on something here and see if you gentlemen would agree with me on this. If some misguided young person decided that the killing or even the political manipulation was too much to bear and they said, "I have nothing to do with the Communists in Vietnam. They probably are awful. I just want my soldiers to come home and I want this war to end." You would put that person in a different category than somebody who went to Moscow, or a conscientious objector. A person that was a pure peace worker, or as Bill Buckley writes in his column, like Joan Baez, who said she was sorry and wrong when she saw the killing fields and saw the boat people, Joan Baez marched on the White House, and as a young Congressman, young meaning new Congressman, in 1979, I went with her. We knelt in front of the White House on the north side. There was BOB DORNAN, a liberal Republican, failed to show up, he told me about it, so I went to Joan and he was not there.

Joan Baez covered Newsweek Magazine, as a matter of fact. Joan Baez, a Buddist Monk, a Vietnamese Catholic priest, and BOB DORNAN.

President Carter, to his credit, came out of the White House through the

north portico, came up to the fence and actually climbed up on the bottom rung.

Mr. CUNNINGHAM. President Carter was a military man.

Mr. DORNAN of California. He was an Annapolis graduate.

He said, "I will order the 7th Fleet to start picking up refugees."

Now, Joan Baez never apologized for her impulse toward peace, but she condemned the enemy.

They ran a full-page ad in one of the New York Times or Wall Street Journal papers, and Jane Fonda refused to sign it, as did Noam Chomsky, Tom Hayden. You found out in 1979 about the killing fields, 1978 and 1979, who the real pro-Hanoi workers were.

□ 2350

Now Jane Fonda, although Hayden has never apologized; after she got rid of him and gave him $15 million to get lost—he had a Clinton problem: Trying to nail every stewardess he laid his eyes on. They used to tell me this story, this was up between Sacramento and LA, call them banana nose and laugh about why they think he would be successful with us. He felt sorry for Jane.

But she has apologized. When she tried to make that movie in Connecticut, a half an apology, she said, "I shouldn't have gone to Hanoi. I hurt a lot of people's feelings. I didn't mean that. I was very naive. I didn't think some things through." But that was as far as she could go. No condemnation of the killing fields, the Communists, the massacre of 68,000 people who loved us and worked with us, but at least it is half an apology.

Clinton cannot apologize for his trip to Moscow because he is so wrapped up in his web of deception, if he apologized for something, people would go: What? They would accept the apology, but they would not vote for him to be the Commander in Chief, to lay the wreath on the Tomb of the Unknown Soldier, sailors and marines for all the wars of this century.

That is the catch-22 that this guy has gotten himself into.

Ifshin, David Ifshin, and the article the gentleman has there by Bill Buckley, was written in 1984 when Ifshin was, get this, chief of legal counsel for the Mondale-Ferarro campaign. Later he was hired by the Dukakis campaign.

Mr. JOHNSON of Texas. And senior political advisor.

Mr. DORNAN of California. Then, and then Mickey Kantor, who I have gotten along with, debated on television, Democratic operative from LA, Jerry Brown's campaign manager for his Presidential run before this time he shifted to Clinton because he figured a moderate might win—well, I am telling my friend, Mickey Kantor, "You aren't ever going to convince me, Mickey, this guy is a moderate. This is a George McGovern, radical, leftwing, pro-Hanoi who, because he was born in Arkansas, knew that he had to learn to talk moderate or conservative speech because he lost his first race to our colleague who still serves here, JOHN P. HAMMERSCHMIDT." He lost the Governor's race 4 years later, although he won Lieutenant Governor in 1978.

This issue never came up in Arkansas in the Governor's race when he made his comeback in 1982, 1984, and then they went to 4-year terms, so he was elected in 1986 and 1990. Why? Because he had a simple total distortion of the truth. He said, "I submitted myself to the draft." Not true. "I drew a 311 in the lottery on December 1, 1969, and by a sheer fluke," that is a quote this year, "by a sheer fluke I never got called up, but I liked the military. I have always admired it. Gosh, maybe I would have liked to have gone."

All of this is improper because on December 1, he drew his number; on the 2d he wrote to Yale, where his mother said he always intended to go anyway. On the 3d he wrote this mawkish, disgusting, deceitful, lying letter to Colonel Holmes.

Mr. CUNNINGHAM. These are documented dates.

MR. DORNAN of California. On the 12th, or thereabouts, he is in Oslo, Norway, visiting with peace people, that is, pro-Hanoi activists, prowar people pulling for a Communist government, a Socialist government, in Southeast Asia, also for Cambodia and Laos and Thailand and Malaysia and Singapore when they got around to it, and somewhere between December 12 and December 31, he shows up in Moscow, 26 degrees below zero, dead of winter, and stays there for how long? He says through his mouthpiece, to his senior staffers, a week. How do we know a week?

ABC national television showed no interest today. They called me, said, "What do you got? We're not interested."

Post: So far Washington Post not interested. So far New York Times not interested. So far Wall Street Journal will not answer my calls. So far LA Times not interested. Jack Nelson, Washington senior man for the LA Times, referred me to a local reporter who is a good man. Maybe he will do a story.

I do not know what is going on here with the American media, but I am beginning to believe in my gut, gentlemen, that the bias this time is deeper and more disgusting than anything that Agnew talked about November 13, in Des Moines, IA, of that same year, a month before Clinton left for Moscow. Six weeks before that excellent speech of Agnew, written by Pat Buchanan, as a matter of fact, about the nattering nabobs of negativism and how big media twists the news, they looked like little pussycats in 1969 compared to the raw, ugly bias in the dominant media culture today. Clinton is their candidate, and they need to carry him with all of his flaws and warts and his association with KGB agents in Moscow.

Whether or not he knew it, it was irrelevant. I will give him the benefit of the doubt on that.

Mr. CUNNINGHAM. He would not qualify under our intelligence records to serve in this body.

Mr. DORNAN of California. He could not serve on the Permanent Select Committee on Intelligence if he was in this body, and he tried to get here in 1974 when he was 28. He could not serve. That was only 5 years after that he was running for the U.S. Congress. He could not get a secret, let alone a top secret or a code word clearance, and he could never be commissioned in the military because of this record. If he has wanted an officer's commission, if he has levelled with Colonel Holmes, come home in January 1970, they would have grilled him on that Russian trip, and then they would have said, "Look, we haven't got time to fiddle with you, buddy. We've got other good kids from Arkansas. We're going to take other people. We'll take a high school diploma farm kid over you. Get out of our sight." But he was worried about political viability.

This guy, Ifshin; I do not understand this. This was a press release in——

Mr. CUNNINGHAM. Can I read this?

Mr. DORNAN of California. Please do.

Mr. CUNNINGHAM. This is the first time, and I am reading where the gentleman highlighted it. That is why my eyes fells on it.

Mr. DORNAN of California. Sure.

Mr. CUNNINGHAM. Mr. Ifshin, a member of good standing in the antiwar movement went in response to an invitation from the Communist government of Hanoi to help negotiate, was known then memorably as the people's peace treaty. In sum, Mr. Ifshin went to Hanoi at the behest of the Government with which his country was at war and there made pronouncements that, whether he willed it or not, made useful propaganda for Hanoi radio.

Mr. JOHNSON of Texas. Yes, he signed the people's peace treaty, for goodness sake, without any official——

Mr. DORNAN of California. And they were trying to get some of you to sign that thing, as I recall.

Now in Alcatraz was there even a PA system——

Mr. CUNNINGHAM. Is he going to be Clinton's Secretary of Defense?

Mr. DORNAN of California. Look. That guy will end up so high in the State Department, and then he will go before a Senate committee for confirmation, which is already loaded with the majority party, and they will be battling over there, one after another, as Clinton's true colors come out and

he tries to take these birds of a feather that he really runs with because, if he makes it on November 3, next month, if he makes it, do my colleagues know what the battle cry is going to be with all of these people who have felt kind of treasonous, properly so, all these years? They are going to say, "We made it. One of ours, one of ours who got to Moscow," and his friends got all the way to Hanoi to betray their country, "one of ours has made it," and the media will grovel, all these light types, that the flower children of the 1960's are now in control of the greatest nation in the Free World——

Mr. JOHNSON of Texas. They announced in the Clinton campaign that Ifshin, this broker known traitor guy, will take an active role in the development of foreign and other policy areas——

Mr. DORNAN of California. Wait a minute. I just——

Mr. CUNNINGHAM. The gentleman brought up a point last night. What effect is this going to have, not only on our veterans who are held in esteem in this country, but what about our active duty military knowing that Clinton, who turned his back on this country and has had someone like Ifshin in defense when we have active duty men and women serving this country, the same people that turned their back on him, and we might ask our friend, the gentleman from Texas [Mr. JOHNSON] how he thinks it would affect the veterans in the current military.

Mr. DORNAN of California. What do you think, SAM?

Mr. JOHNSON of Texas. I think they would be appalled. It would be in my view awfully hard to get somebody to come into the military to defend this country with somebody like that.

Mr. DORNAN of California. Does the gentleman know what I just recalled about Ifshin? I forgot for a moment what he did for Dukakis.

The Buckley column, with his quotes over radio Hanoi asking men to betray their country, throw down their arms, same thing they got Fonda to do 2 years later in July 1972. He was chief legal counsel for Mondale, 1984, but in 1988, for Dukakis, he was the chief of the transition team. When they came out of their convention 17 points ahead, were planning on winning, they put this traitor in charge of the transition team to fill 75,000 jobs that are listed in what is called in this city the Plum Book as big as a phonebook. He would have say over Presidential ambassadorial appointments, and liberal Presidents always tend to push the statute, but traditional 40 percent break or less, of Presidential appointees or political appointees, if my colleagues want to put a bad title on it, as opposed to career Foreign Service officers.

Right now, under President Bush, because he was on board at China and the United Nations, he has got it down to a lower percentage out of respect for career Foreign Service people, out of our 160 embassies out of about 170 nations in the world where we have an embassy in the present. There are only 36 Presidential appointments. Every one of those good people, including the key countries of Japan, Germany, London, Rome, Paris, Oslo, Belgium, Switzerland, 36 of those people are going to be called home in just a couple of months if Clinton wins, and 75,000 people across this country will lose their jobs, and the McGovernites will be back in position again as they infiltrated and dominated 90 percent of the Carter years giving us that 24-percent interest rate and 14½ inflation rate.

We are in for, as Betty Davis says, a "fasten your seat belt, you're in for a bumpy ride." It is going to be a brutal 4 years, particularly on the military.

□ 2400

Maybe Ifshin is already planning to be head of the transition team if they pull it off.

Mr. CUNNINGHAM. Truth, integrity, and character.

Mr. DORNAN of California. As I said last night, duty, honor, country. I still have a certain respect for a guy like David Harris, who was Joan Baez' husband at the time, a student body president at Stanford. By the way, Ifshin was the student body president at Syracuse when they had riots up there, and then he became president of the, what was that association, the National Association of Student Leaders, or something, turned into a radical proHanoi arm. Whatever happened to that group, by the way? I have not heard from them in a decade or so.

No, what we are on the edge of here is a nightmare. What I am finding that I am getting angrier about, not bitter, just plain old anger, is the media does not think what these people calling and writing to our offices, and since you joined me last night, wait until you see what happens to your mailbox in a day or two.

Mr. CUNNINGHAM. We have had 2,000 phone calls today, all positive.

Mr. DORNAN of California. Wait until you see the mail coming in. Not just from veterans, but mothers, gold star mothers, people who wondered why we were never able to win. And we know that the war was fought in the halls of this place.

Mr. CUNNINGHAM. I have had Democrats call today and said they are not going to support this guy. They did not know. And that is why it is important that you are bringing these documented facts to the American people, because the press will not do it.

I would like to ask my friend SAM JOHNSON, the great SAM JOHNSON from Dallas, TX, SAM, what do you think, and maybe this is an unfair question, but if you in prison with your other members could have got ahold of Jane Fonda, Tom Hayden, Clinton, and this rascal, what would you have done to him?

Mr. JOHNSON of Texas. Ifshin? Well, we talked about bringing them back on a plane with us and kind of easing them out the door at about 40,000 feet.

Mr. CUNNINGHAM. I know you say that in jest, but I also know that if the POW's would have had their way, there were a lot of people that would have been tried for treason in this country.

Mr. DORNAN of California. I think they should have been.

Mr. CUNNINGHAM. Including a member that was a turncoat prisoner of war that was in Jerry Brown's cabinet along with Jane Fonda and Tom Hayden.

The SPEAKER pro tempore (Mr. VISCLOSKY). The time of the gentleman has expired.

## PATRIOTISM AND AMERICAN POLITICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. JOHNSON] is recognized for 60 minutes.

Mr. JOHNSON of Texas. Mr. Speaker, I think we need to just make a couple of more statements here. I think 1970 may seem a lifetime ago to some, but it will never be long enough to erase the shameful act of the two Americans that played politics with their own countrymen, and that is what we are talking about.

Mr. Clinton, BOB, said, and he is talking about Russia in 1970, "Relations between our two countries were pretty good then. It was a time of détente."

Mr. DORNAN of California. It was not.

Mr. JOHNSON of Texas. Get off my back. "And the American Moon landing had just been shown on Soviet television. So it was a very friendly time." And he says, "I love riding the trains in Russia and the black bread, too."

Now, come on. In that timeframe, and I recall, and we talked about it a little earlier, the likes of Jim Stockdale in California, Jerry Denton in Alabama, and I, were sitting in a Vietnamese prison camp, and we were not riding the trains and eating black bread. We were eating rice and pig fat and watching rats.

Mr. DORNAN of California. And sometimes watching the Vietnamese guards pour gasoline on the rats and set them on fire and laugh as they would run to their death.

Mr. JOHNSON of Texas. Well, I watched them kill dogs that way, too, with gasoline.

Mr. DORNAN of California. Let me read a press release from today, not a press release, a press statement, out of Little Rock, today, dated October 2.

"An Arkansas newspaper editor asked if Clinton went to Moscow while a college student." While a college stu-

dent? He was not going to class. He was ditching his whole last year at Oxford. He was taking the money and not doing the work. I have said that every night for a week, and not one of them has contradicted what I have said here. All they just say is "DORNAN is not telling the truth." But they will not come up with one fact, and they will not tell us exactly how long he was in Moscow, whether he went in by a train or plane, who greeted him there, how did he get his visa? Was it at 10 Kensington Palace Gardens, at the Russian Embassy? Is that where he got it? Let me finish this.

Arkansas newspaper says did he go while a college student. "Ms. Betsy Wright sighed. * * *" Is that not interesting to see in a hard core news story? Sighed. "* * * * then said the Rhodes scholar," he never got his Oxford degree, "had traveled to the Soviet Union during a break in his studies at Oxford."

Yeah, a year break in his studies at Oxford. I repeat, he was in Oslo a few days before.

"Despite the rumors," I guess she is referring to me, "he was alone. He did not travel the peace train with the Berrigan brothers."

That was my speculation a long, long time ago, last Wednesday, when I had only the barest of information here.

It goes on to say, "The Roman Catholic priests were Vietnam War protesters dumping blood on the files of draft boards, sneaking onto a SAC base with sledge hammers and beating on the wings of a B–52."

Did you gentlemen happen to catch Bill Buckley's column last week? He says now here is the problem with Mrs. Clinton, Hilary. The news media love to characterize our convention as a festival of hate and fear, and that we were beating up on this poor innocent wife who really did not want to do anything but bake cookies. Nothing about the volunteer organizations that she belongs to that gave money to the Communist Sandinistas in Nicaragua.

Here is the way Bill Buckley starts off. I have never seen him get this rough.

William Bennett raises a nice point when he writes in the current issue of National Review that a distinction should be made between the public and the private character of Bill Clinton. The private character has to do with whether or not he has lived scrupulously by his wedding vows. The public character has to do with whether he has deceived the American people. As a wag might put it, it is one thing to fornicate Gennifer Flowers; quite another to do so with the American public.

Here is the paragraph which former Secretary of Education and drug czar William Bennett makes his point.

The SPEAKER pro tempore. (Mr. VISCLOSKY). The Chair would remind the gentleman from California about the decorum of the House. The Chair will not diminish current protections against references to the President, Vice President, and Senators. The Chair acknowledges that under the precedence and practices of the House a greater degree of latitude does not exist with respect to references to nominated candidates for President and Vice President who are not incumbents or Members of Congress.

However, the Chair believes that in order to maintain decorum in the House, certain minimal standards of propriety in debate should apply to all nominated candidates for President and Vice President.

Thus, the record and character of such candidates may be properly debated without references which constitute a breach of decorum.

Mr. DORAN of California. Mr. Speaker, that ruling came down last week. Could I ask a question? Was anyone in this House consulted? Did we ever vote on that rule, or was it just arbitrarily handed down by the Speaker?

□ 0010

The SPEAKER pro tempore. (Mr. VISCLOSKY). The Chair has an obligation to maintain the dignity and decorum of the House. Words such as "liar" and "fornication" have been used in the debate, and the Chair has determined that that is a breach of the decorum of the House.

Mr. DORNAN of California. I was quoting from a distinguished columnist and national figure. Has been on television since I was in my early twenty's.

The SPEAKER pro tempore. The Chair cannot read, but the Chair can hear the words.

Mr. DORNAN of California. I will not continue.

Would it be, could I ask unanimous consent that Mr. Buckley's column be put in the RECORD, would that uphold the decorum of the House?

The SPEAKER pro tempore. That would not be proper to insert in the RECORD something that it would be improper to say on the floor.

Mr. DORNAN of California. Mr. Speaker, I agree. I will not put Mr. William F. Buckley, Jr.'s column in, a columnist for United Press Syndicate, in hundreds of American newspapers, but I will talk to Bill about it and tell him to not be so blatant in his writing so I can get it in the RECORD.

Here is the problem that comes from the legislative affairs office of the Secretary of Defense. He called me and said that he wants me to call a three-star general to request an amicus brief by the Department of Defense to support a lawsuit by a student's mother who wants to overturn in New York the Rochester School Board's decision not to allow military recruiters at any Rochester high school.

The reason that the courts have blocked temporarily Rochester high schools from allowing Army, Navy, Air Force military recruiters to seek young enlisted men and women for the military is these recruiters are not allowed to recruit out of the closet, outspoken, activist homosexuals, male or female.

In brief, the New York School Board made a decision on December 9 to impose such a ban in all the Rochester district high schools. A very brave, 17-year-old Rochester student and his mother have sued the city school district because of the ban and won in the New York Supreme Court. Now the parent and child are winning.

He gives me three pages from the New York Supreme Court decision, which I have read, not being a lawyer, it still is easily understood. However, the Rochester School Board has appealed the decision.

This is Jack Kemp country, for the 18 years he was a Congressman in Buffalo and Rochester. A number of leftist organizations are helping in the appeal against the New York Supreme Court, including the "Committee on Lesbians and Gay Men in the Legal Profession," and the Association of the Bar of the City of New York, the New York Civil Liberties Union Foundation, the Society of American Law Teachers and the Bar Association for Human Rights of Western New York.

Here is what is amazing. The Governor of Arkansas has aggressively gone after the proabortion vote, has said something that no candidate has ever said in the history of this Nation, that they will have a litmus test, that they will ask a nominee to the Supreme Court, prior to any decisions about a decision that will probably be heard, what he is going to do. And if he or she gives the wrong answer, they are out. They do not get to go before the Democrat-controlled other Chamber.

Then he says he will sign an Executive order within days, sort of the way President Carter kept his promise to immediately give amnesty to the draft dodgers, but he was qualified. He did not give it to all of them. I do not think this guy, if we had known, this guy David Ifshin would have qualified. He probably had a 4–F. He did not care too much about his political viability because he planned his life to run cover, to kind of craft, to suck up into the slot of someone.

Mr. CUNNINGHAM. Did he have a bad knee?

Mr. DORNAN of California. He was planning on drafting or sucking up behind the tailpipe of somebody like the Governor of Arkansas.

Mr. JOHNSON of Texas. You have got to have some proficiency to even suck up.

Mr. DORNAN of California. I did not mean to use a flying metaphor with two top pilots here.

President Clinton has said—I mean Governor Clinton, I hope that is not a Freudian slip.

Mr. CUNNINGHAM. That is a misspeak.

Mr. DORNAN of California. Governor Clinton has said with an Executive order, which he can do with his pen, he will order the Army, Navy, Air Force, and Marine Corps and the Coast Guard, which is under DOD in wartime, under the Department of Transportation in peacetime, he will order them to start recruiting out of the closet, activist lesbians and male homosexuals. That will destroy the morale, particularly an Executive order signed by a draft dodger who has been hiding his draft dodging.

This is the kind of thing America does not know about, and the networks will not tell this country. And that is why, SAM, tomorrow, you have already gotten a bunch of calls tonight, that is why tomorrow you are not going to be able to call your office in the morning. I could not call my office.

Mr. CUNNINGHAM. Where did he make those statements?

Mr. DORNAN of California. This is only a week old, a memorandum for me to call this lieutenant general and get him to file an amicus brief with the mother and the student.

Mr. CUNNINGHAM. What I want to do is show people that this is not something you are making up. It is documented.

Mr. DORNAN of California. Because the President, if it turns out to be Clinton, will order, the New York Supreme Court decision will be moot because he will order every—you know how motivationally inclined recruiters are. They look for the sharpest noncommissioned officers in the military, in the Navy and Air Force and Army, because these are what the parents see when a young person says, "I am inclined to go into military service. I would like you to meet my recruiter." Particularly if they are 17, maybe have been in a little trouble or juvenile, rambunctiousness, and a judge says, "Why don't you join the Marine Corps." And he has good parents. He is a victim of peer pressure maybe. They go down to meet the recruiter.

These are good-looking men and women, militarily sharp, intelligent.

To get an order from the President of the United States, next January, "I want you to actively recruit these people," I am telling you, Americans do not know what is going on in this election because the news media has picked their candidate. And are ripping the guts out of George Bush every time they get a chance.

Let me tell you what I am upset with. I have had a couple of media people hint, am I doing this in coordination from the White House. I have not had a single call or contact with the White House or on this subject material with our White House liaison in the last 10 days.

As a matter of fact, not even a thank you card, not even an awareness call. We understand what is going on.

To tell you the truth, the frustration in a lot of calls coming in to me, because generally we are inching dangerously close to that point, about 3 weeks out from the election, where the news media will then, through public pressure, when asked to discuss this, they will say, "I guess in an act of last-minute desperation, in a lunge toward negative, dirty campaigning, Congressmen DORNAN, JOHNSON, CUNNINGHAM, at the behest of the White House, are desperately seeking to bring up some pseudo-charges against Clinton about going to Moscow or dealing with oro-Hanoi war workers or organizing demonstrations in a foreign country against his nation and his policies which would have precluded him from ever becoming a corporal or a private first class, let alone an officer, let alone Commander in Chief."

What is frustrating me and why I am so late doing this, because generally we should have been doing this 2, 3, 4 months ago. We should have interjected ourselves, as Republicans, into the primary process of the majority party in this House, a great party through most of history, Thomas Jefferson's party, and maybe helped Senator BOB KERREY, a Medal of Honor winner who got his Medal of Honor not because of combat efficiency, because he led his men into an ambush. Just as President Kennedy got his PT boat cut in half on his very first combat mission, but showed his heroism and got his Navy Cross for rescuing his men who were drowning in the water, although he lost two.

Where did KERREY show his mettle and courage? Because bleeding to death, he made sure every enlisted kid was helicoptered off that island in Natran Harbor until he allowed himself to be helicoptered out.

I met him, of all bizarre places, in the men's john at the American Legion hall in Manchester, NH.

I said, "BOB, good to meet you. It is an honor I look up to guys like you. You are going to beat the pants off this draft dodger, aren't you?" Of course.

I went over to see him at a Senate hearing. I slipped in next to him and I said, "Have you ever read the Flowers tapes where he acknowledges his apology to Cuomo? It is he; have you really looked at it?"

I did not have a tenth of this stuff. He says, "I will never endorse that draft dodger."

He was out there on the grassy triangle on the House and Senate side the other day with a bunch of other honorable war veterans, and he rose from this House, so lusting to hold that White House, the Senate and the Congress, the House is not good enough for them.

□ 0020

They are ready to overlook all this stuff. They are not thinking it through, these men of conscience. They are letting their conscience dictate to them to not be part of this process.

With Ross Perot in the process, I want you to help me, DUKE, and SAM. I want you to help me get to this terrific American naval hero, James Bond Stockdale, and ask Jim if he will not make his mission as Ross Perot's winning man to bring out what we are trying to bring out here before this also Medal of Honor winner, Stockdale, Medal of Honor for combat inside the prison cells from his torture.

We do not want this country to end up confused, with high school kids saying, "Come on, smoke this joint. You know, the President did, and you know he inhaled."

Mr. CUNNINGHAM. James Stockdale is probably one of the few real American heroes that we have. He is an honorable man. I have known Admiral Stockdale and his wife, Sibyl.

Mr. JOHNSON of Texas. Sibyl is great. Can't you say there is only one candidate that actually dodged the draft?

Mr. DORNAN of California. Of the six candidates now, we have a Medal of Honor winner and a naval officer, Ross Perot is a naval officer, George Bush is a naval officer, AL GORE served, which was an act of bravery because his father was voting against the war and lost his seat in 1970. Although AL was only there 6 months as a newspaper reporter, it was an extra ounce of character to go.

Mr. JOHNSON of Texas. But he went.

Mr. DORNAN of California. Yes, he went and wore the Nation's uniform. If he didn't get shot at, he covered the heroes and respected the ones that did, although there is a new story coming out about his Desert Storm vote, but we cannot comment on Senators. That they have to get through calling our offices.

Today is the 2d. There are 29 days left in this month, and we do not count the 3d. There are just 2 actions day next month. Thirty-one days and it is all over, counting tomorrow. Then we start voting across this country.

I want to apologize for not doing this on the floor months ago. Here is my weak excuse. I thought the White House would be doing it; I mean, the campaign. I thought my friend DAN QUAYLE, my classmate from 1976, Bob Walker's classmate, GEPHARDT is my classmate, AL GORE is my classmate, I thought DAN would be out on the trail doing this. I thought Jim Baker would be doing this.

Jim Baker, Mr. Speaker, if I had him here I would be on my knees to him, "Do this. We have to let this soak in. We cannot do it 10 days from now." The media are going to push it in our face, I repeat, "Desperate last-minute attempt at smearing Clinton's record."

Why hasn't this been brought out by all these talented people in our own

party, with 75,000 jobs of good men and women all around the world, most of them concentrated in the executive branch here? Why haven't they been bringing this out?

I had intended tonight, until you two heroes offered to join me, to do a whole hour on the economic shenanigans, the middle-income taxpayer problems. I will do that tomorrow.

Mr. CUNNINGHAM. That is probably the real crux of the importance, BOB. I look forward to that special order, to show the economics, not only the effect on the military but the cut in defense. People like this on his staff are going to be making decisions, not only how it is going to affect the military, but the President has vowed to cut defense only 30 percent; I say only 30 percent, and in most States that is devastating to the economy. Can you imagine, and that equates to $50 billion, can you imagine a Governor that wants to cut defense by $250 billion, not only how it will affect the readiness of this country?

I do not think any of us think there will not be another conflict in 20 years. Every man and woman in this country that has a young son or a young daughter that may be thrust into that, or in the past, would they want their children subjected under fire to no equipment, ill training, and with low morale?

I think the economics and how it will affect this country, most people are mad. Today I go in my district and they are mad as hornets. They are losing jobs. The economy is bad. The recession is bad. I think it is very, very important that we address in another special order how this economy will be affected, and the military.

Mr. JOHNSON of Texas. Clintonomics is nothing but a disaster waiting to happen. As you know, it does not address the budget. It does not address balancing the checkbook.

Mr. DORNAN of California. That is what keeps Perot motivated.

Mr. CUNNINGHAM. One thing, it makes me mad every single day, especially when the Governor comes out and says, "Look, the President moved his lips." Ronald Reagan used to tell the other side of the aisle basically where to go, and when they did not achieve his economic policy, then he would go to the American people. George Bush tried to conciliate and work the other side of the aisle. In that conciliation he said, "Ok, I will raise taxes," and this is what that deal was. I do not think the American people understand it, Mr. Speaker.

What the President's deal, when he moved his lips, was that for every dollar that comes in, and we want to balance the budget today, and they are talking about raising taxes to do it, but the deal that the President made was that for every dollar that comes in we will cut spending by $3. They are spending $9 today. The military construction where they said just last week that we voted on, we came in under the President's budget and they belt themselves on the chest, but if we look at the pork barrel projects that went into individual Members because of all that Members said, that we are drawing back from Europe, they said, "Let us have a peace dividend." The peace dividend is going to individual pork within individual Members' districts, not toward the deficit.

Mr. DORNAN of California. Let me enlist your help in something. First of all, in a battle between a great Irish politician from Boston and our Whip, before he was Whip, about using these special orders to communicate with the American people, a privilege for the lowly minority status of those of us in the Republican Party who have been stripped of all of the powers of the minority that I recall having here in 1977 and 1978.

Mr. CUNNINGHAM. Under the Committee on Rules.

Mr. DORNAN of California. Where I thought "What a great Congress, what a great country, that I can come here as a minority member and amend things on the floor all the time." I passed 40 amendments in my first 2 or 3 years. I do not think I have passed that many in the following 10 years, the way the rules have been tightened down here.

This is what a gentleman said who used the complimentary word, he said he was riveted to his set. He is an Academy Award caliber actor. I would not mention his name on the floor if you guys tortured me, because Hollywood is so radically far left.

Mr. CUNNINGHAM. I know who it is.

Mr. DORNAN of California. This man's career is doing pretty well. No more clues.

He called me with this suggestion. "I need your help."

Mr. CUNNINGHAM. It is not Charlton Heston.

Mr. DORNAN of California. He said, "Congressman, I know you said about a million people are watching live;" no dead people are watching except our friends in heaven. He said, "Over a million live Americans, most of them with us on this." I have received one-half of 1 percent negative calls, and some of them have been polite, trying to understand. They were for Clinton, and trying to understand why they have not found this out, am I making it up.

He said, "I understand there are a million people watching, but Congressman, when you are alone on the floor, or anybody is alone, Mr. GONZALEZ on the other side, there is a feeling that I am watching a man speaking about Jesus, truth, or religion on a corner." You know, he is right. You respect his effort. He has a cup. You walk by and you put a dime in it, but you feel sorry for him.

He said, "No matter how many times you say," and I usually start off every special order by saying, "Don't worry when the cameras pan an empty Chamber, don't worry, there are plenty of Members listening in the offices." The gentleman from Michigan [Mr. BROOMFIELD] told me he has been watching every night for a week at home, a man who has been here since 1956, retiring with all his flags flying and his honor intact; here is what this very distinguished craftsman in the art said.

He said, "Why can't you get your caucus to have 50, 60, 70 Members on the floor," we have only got 3 days to go, in a final special order where DUKE takes one lectern, you take the other, I take one, DUNCAN HUNTER takes that one, we have available the other leadership mikes over there, three of them, and we have this big, mass colloquy, and people see Republicans together discussing these serious issues, following the decorum of the House.

I have assiduously, over the last 2 days, and you two guys slipped, I should have warned you, no lying, but I learned from SAM GEJDENSON after the Speaker came down with his arbitrary rule, unvoted upon, that I will basically support, SAM GEJDENSON got right and said, "When is President Bush going to start telling the truth?" he didn't call him a liar, but he was asking when he was going to start telling the truth, which inherently means the President is lying.

So I got right up and I said, "Well done, my colleague from Connecticut. When is Bill Clinton going to start telling the truth about his draft? I am doing a special order tonight.

So that is the way we do it now around here. No more "liar"; a little rough, Bill Buckley's column. I will call Bill up in the morning, chew him out, and say, "Use another word. Use French, you have 'liaison, dangerous liaison.'"

Mr. CUNNINGHAM. May I ask a question, BOB? Is this the same individual that wrote the rule, and I do not know where the rule came from, is this the same one that said there was no problem with the House bank, that said there was no problem with the House post office?

□ 0030

Mr. DORNAN of California. I stumbled on a few of those things, and he has got his own problems in his own party hanging on to leadership. But I just wonder if you guys would help me go to our Browning automatic rifle, BAR, the highest firepower in the infantry squadron from the Second World War. BOB MICHEL proudly wears the Bronze Star, which you guys both have, and under it the Purple Heart, which you both have. Let us go to BOB and say BOB, instead of having our conference call over in room 2167, arguing about how we are going to create our

leadership when we may be smaller than we are right now if the President does not close this gap, and I do not care if it is 9 points, or 21 points, the clock is ticking, and we are running out of time, let us have our conference call right here on the House floor, Sunday, or Saturday evening in front of all of America and discuss these issues. Because I can tell you what some of our sharper Members are traveling around the country like me for challengers and making most of the speeches for President Bush, they are agreeing with me that we may lose 48 Republican seats or more, about 10 or 12 incumbents and about 30 other challengers by one point, a negative coattail. In other words, President Bush not only not having coattails, but a deadening effect on our races. And we will have plenty of room in the little snack bar to get a hot dog or a tuna sandwich, because there are going to be about 143 of us, which is what was here when I came under President Jimmy Carter and watched our economy and the misery index go right in the dumpster. Will you help me ask BOB, and I am saying it openly so that all Americans can write to their Republican Congressmen and say get on the floor Sunday night, when the election is 29 days away, and help support Congressman DORNAN and these Navy and Air Force heroes discussing what we are up against, this impending disaster, if Ifshin is the head of the transition team picking Americans for 70,000 jobs across this country. What about doing that Sunday evening, DUKE?

Mr. CUNNINGHAM. I will be happy to.

Can I shift just a little bit. I would like to shift and take a look at 2 years ago when I joined this body, and just a few years before that I worked at the Navy Fighter Weapons School, which is called Top Gun.

Mr. DORNAN of California. Everybody knows that.

Mr. CUNNINGHAM. And our whole thrust was the Sino-Soviet fighter pilots and fighting Soviet tactics and deterring the nuclear threat. I would like the Speaker to reflect and think back just 5 years ago, 4 years ago of what this country's potential of going to war and nuclear war was. A few years ago one of the items that I asked of what was one of the main concerns of the American people, it was nuclear warfare.

The presidency under President Bush, take a look at the Soviet wall that has come down. That means a lot to the American people. Take a look at that fleeting away.

Remember during Desert Storm when the missiles were coming, and we had our Patriots stop them, and people were thinking what would our children do, what fear would we have, what fear would we have if that is a nuclear weapon. And during President Reagan and during President Bush that threat has gone away.

I want to ask you do you think that if Clinton had been President for those years that this could ever have been achieved?

Mr. DORNAN of California. If Admiral Crowe, highly decorated for staff work, all of his career submarines were never called into combat, and that is not his fault, if he were President we would be sitting here right now seeing these ineffectual sanctions not working, and Iraq, because that war ended a year ago February, Iraq would now have a nuclear device. They would have biological and chemical warfare that would give you nightmares. The NBC, nuclear, biological, chemical warfare they almost developed, and we still do not know where their secret places are hidden because they are jockeying around and jacking around the entire U.N. investigation team.

Mr. CUNNINGHAM. If the President had not acted in Desert Storm, can you conceive of the price of gasoline and heating oil with winter coming up, and the people that would not have heating. And in this country we actually have people that die because they cannot afford fuel. And how many lives would we have lost just because of our oil stores being drained in this country?

This is what I am referring to as we talked about the ills of Governor Clinton. But I would like to reflect just a little bit on what the administration has done for this country that is also the positives. Look at the Soviet wall that has come down. Look at foreign policy. I want to tell you in the 2 years that I have been here I have seen this House shut down. And what you are talking about, there is quite often where we are not even allowed to bring up an amendment under the rules, and the President's economic policies, his domestic policies are shut down by this body.

And he has focused a lot on foreign policy because he did not have to deal with the U.S. Congress. But look at the things that he has done. Look at the Soviet Union, and look at the direction that they are going to become a democracy. Look at the potential of free trade in this country. And if we do not get involved in free trade in the next decade, we are going to be lost, with 400 million people in Europe, and the Asian community is being very proactivist. And if this country does not ally itself, I personally feel we are going to die economically.

The President is trying to make these changes. He is trying to make changes in education.

My wife is a principal.

Mr. DORNAN of California. My brother is a high school teacher.

Mr. CUNNINGHAM. She used to be a teacher and I used to be a teacher. And I think we have got very good teachers and very good programs in this country, hundreds and thousands of programs. But something is wrong, and we need to take a look at it, and the President is trying to do that.

But I sit on the Education and Labor Committee, and his ideas and his thoughts have not been allowed to come forward.

Mr. DORNAN of California. Listen to the letter Clinton wrote to Colonel Holmes, Bataan death march survivor, 28 days before Clinton left for Moscow. You see, I have this new frame of reference, that his whole team admits 28 days before he left for Moscow he writes this first, and he said there was a time when not many people had more information about Vietnam at hand than I did. Now he is describing himself to Koppel as a boy, but he is Mr. Smart. He has got all of the facts, and hardly anybody in the country knew as much as he did, working as an intern for Fulbright for 3 months.

Then a few paragraphs later, five paragraphs later he says, lecturing this Bataan death march survivor of 3½ years' captivity, and I would not say these men were tortured any more than the handful of you who took the worst of it, and you had 3½ years in solitary confinement. I do not know of anybody in World War II that had that many, but you know, I know you tip your hat to these heroes, because 40 percent did not come home. The Japanese killed off 40 percent of our POW's. We only lost 1 percent of Hitler's stalag camps, at least.

Mr. JOHNSON of Texas. And those guys were the real heroes, and they protected our rights, and the right that we have right now for this speech.

Mr. DORNAN of California. That is correct, our right to speak right now.

Here is boy Clinton lecturing this lifetime, career military colonel about warfare. He says to Colonel Holmes, "Now, the draft was justified in World War II because the life of the people collectively was at stake. Individuals had to fight if the Nation was to survive."

We could have cut a deal at any time with Japan or with Hitler. It would have been an ignominious sellout, but we could have said well, we will be safe for a while, peace in our time. Hitler even was willing to cut a deal with England, and said you let me rule here and you will have the British Isles, and I will let you keep your empire, but make sure that I get those colonies here and here. But he said we had to fight if the Nation was to survive and for the life of the country and a way of life.

"Vietnam is no such case," Colonel Holmes, he says. "Nor was Korea an example where, in my opinion, certain military action was justified."

You wasted your time with your six missions in Korea.

"But the draft was not, for the reasons stated above." I left out the para-

graph where he attacks the draft. He says now imagine someone being called up in a Desert Storm type, or Panama, or Grenada liberation-type military effort under President Clinton, imagine that you are a GI coming before say a squadron, or a CO, or a running top gun, and some guy says DUKE, or Skipper, CO, my wife and I have been talking this over, and we have a new little baby, and now we have three kids, and the baby cries with us all the time, and here's my orders. And I am reading from the letter of when he was 23 years old, a boy, and he says, "No government really rooted in limited parliamentary democracy should have the power to make its citizens fight, kill and die in a war they oppose, a war which may even be wrong, a war which in my case does not involve immediately peace and freedom of the Nation. I don't think Panama involves or Grenada involves my freedom." He doesn't think the soldiers who were executed by the Communist guerrillas in Honduras a year ago, shot at point-blank range after their helicopter crash going back to Honduras from El Salvador, he does not think they should have been there. They could have registered on their own an individual problem. Then the next paragraph is Vietnam, and Vietnam is no such case.

Then Clinton goes on.

□ 0040

Because of my opposition to the draft and the war, my future trip coming up to Moscow in 4 weeks, I have got sympathy with those who are not willing to fight, kill, and maybe die for their country (i.e., the particular policy of a particular government) right or wrong. Two of my friends at Oxford are conscientious objectors. I wrote a letter of recommendation for one of them to his Mississippi draft board, a letter which I am more proud of than anything else I wrote at Oxford last year.

I hope in 1968 and 1969 he went to class and wrote something else other than this. There are no term papers to be turned in at Oxford. There are no quizzes, no exams, so maybe that is the only thing he wrote to help some Mississippi privileged young man over there in England beat his draft board.

Why has not the White House found this guy? I mean, the political arm of the White House, the campaign, now that Jim Baker is there with all his skills from being Secretary of State. Why have they not found this Mississippi man? Why can I not find out his name, and why can I not go down there and interview him? I am telling you I am not going to forget this for the rest of my life that I have been out here, until you guys joined me, trying to bring some truth to the American people about a man who is not worthy to tell the President's own Marine Corps band or the Army band or the Singing Sergeants or the Army violins to play any song. How can this man stand in the sound of a John Philip Sousa song written in the 1890's when my dad was a little boy, how can he have the authority to do that with this mixed track record and surrounding himself with traitors like David Ifshin?

No, the country ought to somehow or other figure out how to force the 740 papers plus dailies across this country to print this Moscow thing and some reporter somewhere, some man or woman has to have the guts to say to him, and where's my notes on what I would say to him, to simply say this, "We know you were in Oslo, Norway, Mr. Governor, somewhere around December 12, 1969, or thereafter, and we know you showed up in Moscow on December 31. Your staff tells us this. They say you stayed until on or about January 7. Accordingly to Father McSorley, whom you were with in Oslo, you met with so-called peace groups. Did you meet with peace groups in the Soviet Union?

Mr. CUNNINGHAM. Is this where they organized the skulls with our pilots and the eyes——

Mr. DORNAN of California. That was at the embassy in London. McSorley was present there. "McSorley named his book after you. You were seeing the world through peace eyes. What did your peace eyes see when you got to Moscow at 26 degrees below? Where did you go after Norway and before you got to Moscow? There's about 3 weeks in there where you were rummaging around Europe meeting with these people who were all pro-Ho Chi Minh who had died 2 months before on December 3, 1969; who did you meet with, Governor? What did you do there? Was it more peace work, sir, and regarding Moscow, where did you stay? Who paid for it? Who did you meet with?" Et cetera, et cetera, et cetera. "Now, given what we know about your activities in London, Mr. Governor, did you not say in your letter to Holmes you organized those demonstrations, and did you not brag you led them? Tell us about that? Did you organize the singing? Did you sing these chants against LBJ, how many babies did you kill today, Ho, Ho, Ho Chi Minh, the Viet Cong is going to win? Did you sing that? Now, as you revealed in the Oslo trip, it does not take a great deal of imagination to figure out what you might have been doing in Moscow. Now, tell us about your pattern of behavior. Who did you meet with in Moscow? Are you willing, as a man, to admit that they might have been KGB agents who manipulated the whole peace movement in their country at least?"

Over here, the KGB documents say they did not have to do much to encourage people here. They had themselves whipped into such a frenzy partly by the political manipulation of our military, and then the people unfortunately, and America has learned better now, but they blamed our military people. They dropped bags of feces, and that is a medical word, Mr. Speaker, they dropped bags of feces off the Golden Gate Bridge on the deck of aircraft carriers like your *Constellation* or like the *Oriskany*. I still have not gotten around to reading the book "The Heart of a Man."

The point is: Why are not the media asking about his wanderings around Europe and going into the enemy capital that totally funded and actually, as it did in Korea, which they are admitting now, Soviet documents are admitting now that they ordered the North Koreans to cross over the 38th parallel on June 25, 1950, and that was a Stalin-run operation, and when he died on March 5, 1953, a couple of months after I was on Air Force active duty, Eisenhower was the new President and had the wherewithal to see this thing through with seven words which we never had the guts to use in Vietnam, "No restriction as to weapons or territory." Bingo, July 27, 1953, before I could even get into pilot training, the war was over.

Now, what did he do? Where was his heart? Here is his catch-22. If he tells the truth, which is as plain as the nose on our faces, he loses the election. If he hides the truth and thereby submerges his honor——

Mr. CUNNINGHAM. And the press does not bring it out.

Mr. DORNAN of California. The press has complicity in this. Then he wins the Presidency and does not have the moral authority to tell anybody in the military to do anything. He does not have the moral authority to tell a kid in high school not to smoke pot when he is going on MTV with junior, junior, junior high school kids and telling them, "I am going to get you condoms," and I have to listen to these children on MTV, that sleazy network that puts out that Madonna anti-Christian garbage, I have to watch this guy stroking junior high school kids as though they could vote, telling them he is going to get them condoms.

Yes, DUKE.

Mr. CUNNINGHAM. BOB, how does a man like Governor Clinton stand up before the American people, hold up his right hand and say,"I swear," swear with what character, "I swear to defend the Constitution," and in that Constitution in the preamble it says provide for the common defense, which he has not. How does he stand up and swear to that, to defend it against all enemies which he turned his back on this country, foreign and domestic, and if you look at the domestic record of Arkansas, which is a disaster, he is a domestic enemy, and he was an enemy to this country and to me and to SAM when we almost gave our lives in Vietnam and over 58,000 all of which names are on that wall? How does a person like that with any reflection in his

heart stand up and make a pledge like that after what he has done to this country?

Mr. DORNAN of California. Gentlemen, what do you say we give these good, hard-working folks here a break and yield back some of this time?

I do not know if you gentlemen want to join any more special orders. I am going to do one Saturday and Sunday, and that is about a wrap for the 102d Congress. There is not much heavy lifting around here at Christmas time.

We will be back in January with the 103d Congress if we all get reelected. I think all of us have pretty fair races, so it is more God and health problems than anything to see us back. But help me with BOB MICHEL, our World War II combat infantryman. He was wearing his combat infantryman badge today. Ask BOB to help us get a small crowd here so we do not embarrass the million people who are watching us.

You know, if this were a stage, we would have a penlight, and they would not be panning this Chamber and there would be a little more focus and attention. That panning of the Chamber, I repeat for the umpteenth time, was done to demean any Member of this Congress, any man or woman who comes in that well for a special order, which until it is wiped out, and there is a little movement to do that, to eliminate our 1-minute pressure valve at the beginning of the day, and to eliminate these special orders which was one of the last privileges in the minority, and until that happens, I state again, it is an ugly, offensive breach of decorum to have the camera, under the Speaker's orders alone, pan this Chamber to embarrass us, that we are fools and idiots in here, in a cave of wind speaking to no one.

Over a million Americans are watching us tonight. Let them go to their local papers and local TV channels and see if we can get proper coverage locally that we cannot get out of the island of Manhattan where there is this dominant media culture of liberals, most of them, almost every one of them who dodged the draft.

I said here weeks ago, ask one of these network executives, "What is your branch of service," and their eyes will glaze over. This is their candidate. These are the people in their sitcoms who paper over and make light of Christian values like respecting your marriage vows.

This is their candidate, and they are pushing him in our face, and I want the Americans across this country, with a few days left, to demand that this be covered and that some man or woman have the guts to pin down this frozen smile, jackanapes, all biting his lower lip, and his fake jogging with that spare tire around his middle, ask this man what he did in Moscow, and what KGB agents he met with, and let him plead ignorance on that point. I will accept it if he did not know what he was doing, Boy Clinton, but if Ed Koch, he was a 19-year-old combat veteran, and I am going to straighten him out if nobody else in the New York market will. I am going to as many radio interviews as I can about this country and turning down about 50 a day, I might add.

You guys have anything left to say? I will be back tomorrow.

Mr. CUNNINGHAM. BOB, I would like to personally thank you again. We would not have to do this if it were being properly covered in the media.

Why is not the media bringing these same facts that you found out in an important, in what I think is the most important position in this country? You would think that the people that print and record candidates' character, integrity, and those who take responsibility would dig in that.

□ 0050

And if they would be doing your job, you would not have to do this. I want to personally thank you. I know thousands of calls I got in the office today, every single one of them was supportive.

Mr. DORNAN of California. One little promise. Yesterday I mentioned one of your citizens, Roger Staubach. I think he was born in Ohio, Cincinnati, but he adopted your State. I got his records here, his Vietnamese records. What a guy, to give up 4 years after Annapolis. He graduated in 1965, and he was in Vietnam when Clinton was out with a deferment.

Mr. CUNNINGHAM. I want you to know that he was a Navy quarterback.

Mr. DORNAN of California. That is right, Navy quarterback. Heisman Trophy winner in his junior year. And I have got Ted Williams, an unbelievable baseball record, stats; enshrined in the Baseball Hall of Fame, as is Roger and Ted Williams.

Mr. JOHNSON of Texas. Ted Williams flew in Korea.

Mr. DORNAN of California. That is right. We discussed that last night before you started watching. Ted bellied in. I will put those records into the RECORD about these two great heroes to show the difference between somebody, a great star athlete in baseball and also in football, who give up the best years of their youth to serve their country, that is duty, honor, country. I would put a title on all our remarks tonight: "Why Is the Truth Crushed by Major American Media?"

Mr. JOHNSON of Texas. With honor and integrity at the fore, I just want to thank you for bringing up Roger's name. Roger is cochairman of my campaign, as a matter of fact.

So I thank the Speaker for awarding us the time and give back the balance of the time.

## CONFERENCE REPORT ON H.R. 707, FUTURES TRADING PRACTICES ACT OF 1992

Mr. DE LA GARZA submitted the following conference report and statement on the bill (H.R. 707) to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices which may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service to governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; and for other purposes:

CONFERENCE REPORT (H. REPT. 102-978)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 707), to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices which may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; 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 "Futures Trading Practices Act of 1992".*

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

*TABLE OF CONTENTS*

*Sec. 1. Short title; table of contents.*
*Sec. 2. References to the Commodity Exchange Act.*

*TITLE I—LIMITATIONS ON CERTAIN TRADING PRACTICES*

*Sec. 101. Dual trading.*
*Sec. 102. Restrictions on trading among members of broker associations.*
*Sec. 103. Broker association disclosure.*

*TITLE II—ENHANCEMENT OF REGULATORY AND ENFORCEMENT ACTIVITIES*

*Sec. 201. Duties of contract markets; audit trails.*

Sec. 202. Commission oversight; deficiency orders.
Sec. 203. Oral Orders.
Sec. 204. Telemarketing fraud.
Sec. 205. Undercover operations and enforcement.
Sec. 206. Self-regulatory organization disciplinary committees and governing boards.
Sec. 207. Required registration of floor traders.
Sec. 208. Enhancement of registration requirements.
Sec. 209. Enforcement of civil money penalties.
Sec. 210. Ethics training for registrants.
Sec. 211. Nationwide service of process and venue.
Sec. 212. Increased penalties.
Sec. 213. Contract market emergency actions.
Sec. 214. Prohibition against insider trading.
Sec. 215. Qualifications of Commissioners.
Sec. 216. Commission operations.
Sec. 217. Prohibition on voting by interested members.
Sec. 218. Study of assessments on transactions.
Sec. 219. Competitiveness study.
Sec. 220. Computerized futures trading.
Sec. 221. Money penalties in civil court actions.
Sec. 222. Civil damages; liability of futures commission merchants.
Sec. 223. Customer restitution.
Sec. 224. Complaints against registered persons; class action suits.
Sec. 225. Penalties study and guidelines.
Sec. 226. Publication of Commission opinions.
Sec. 227. Suspension of registrants charged with felonies.
Sec. 228. Appeals by registered futures associations.
Sec. 229. Risk assessment for holding companies.

TITLE III—ASSISTANCE TO FOREIGN FUTURES AUTHORITIES

Sec. 301. Subpoena authority.
Sec. 302. Cooperation with foreign futures authorities.
Sec. 303. Investigative assistance to foreign futures authorities.
Sec. 304. Disclosure of information received from foreign futures authorities.
Sec. 305. Disclosure of information to foreign futures authorities.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS; TECHNICAL AMENDMENTS; EFFECTIVE DATE

Sec. 401. Authorization of appropriations.
Sec. 402. Technical amendments.
Sec. 403. Effective date.
Sec. 404. Definitions.

TITLE V—INTERMARKET COORDINATION

Sec. 501. Margin on stock index futures.
Sec. 502. Exemptive authority.

**SEC. 2. REFERENCES TO THE COMMODITY EXCHANGE ACT.**

Except as otherwise specifically 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 the Commodity Exchange Act (7 U.S.C. 1 et seq.).

## TITLE I—LIMITATIONS ON CERTAIN TRADING PRACTICES

**SEC. 101. DUAL TRADING.**

(a) PROHIBITION.—Section 4j (7 U.S.C. 6j) is amended—

(1) by redesignating paragraphs (1) and (2) as subsections (b) and (c), respectively;

(2) in subsection (b), as so redesignated, by striking "The Commission shall within nine months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required," and inserting "If, in addition to the regulations issued pursuant to subsection (a), the Commission has reason to believe that dual trading-related or facilitated abuses are not being or cannot be effectively addressed by subsection (a), the Commission shall"; and

(3) by inserting a new subsection (a) to read as follows:

"(a)(1) The Commission shall issue regulations to prohibit the privilege of dual trading on each contract market which has not been exempted from such regulations under paragraph (3). The regulations issued by the Commission under this paragraph—

"(A) shall provide that the prohibition of dual trading thereunder shall take effect not less than 30 days after the issuance of the regulations;

"(B) shall provide for exceptions, as the Commission determines necessary and appropriate, to ensure fairness and orderly trading in affected contract markets, including—

"(i) transition measures and a reasonable phase-in period,

"(ii) exceptions for spread transactions and the correction of trading errors,

"(iii) allowance for a customer to designate in writing not less than once annually a named floor broker to execute orders for such customer, notwithstanding the regulations to prohibit the privilege of dual trading required under this paragraph, and

"(iv) other measures reasonably designed to accommodate unique or special characteristics of individual boards of trade or contract markets, to address emergency or unusual market conditions, or otherwise to further the public interest;

"(C) shall establish procedures for the application for an issuance of exemptions under paragraph (3) which, among other things, shall specify the relevant data required to be submitted by the board of trade with each application;

"(D) shall specify the methodology by which it shall determine the average daily trading volume on a contract market for purposes of paragraph (4) based on a moving daily average of either 6 or 12 months; and

"(E) shall establish an expeditious procedure to revoke an exemption granted under paragraph (3) providing sufficient notice, opportunity for hearing, and findings to assure fundamental fairness.

"(2) As used in this section, the term 'dual trading' means the execution of customer orders by a floor broker during any trading session in which the floor broker executes any trade in the same contract market for—

"(A) the account of such floor broker;

"(B) an account for which such floor broker has trading discretion; or

"(C) an account controlled by a person with whom such floor broker is subject to trading restrictions under section 4j(d).

"(3) The Commission shall exempt a contract market from the regulations issued under paragraph (1), either unconditionally or on stated conditions (including stated periods of time) relevant to the attainment or maintenance of compliance with the standards in subparagraphs (A) and (B), upon finding that—

"(A) the trade monitoring system in place at the contract market satisfies the requirements of section 5a(b) with regard to violations attributable to dual trading at such contract market; or

"(B)(i) there is a substantial likelihood that a dual trading suspension would harm the public interest in hedging or price basing at such contract market, and

"(ii) other corrective actions, such as those described in section 8e, are sufficient and appropriate to bring the contract market into compliance with the standard in subparagraph (A).

"(4)(A) The regulations issued by the Commission under paragraph (1) shall not apply to any contract market in which the Commission determines that the average daily trading volume is less than the threshold trading level established for the contract market under this paragraph.

"(B) The threshold trading level shall be set initially at 8,000 contracts.

"(C) The Commission may, by rule or order—

"(i) increase, or

"(ii) at any time following the date three years after the date of enactment of this paragraph, decrease,

the threshold trading level for specific contract markets after taking into consideration the actual or potential effects of a dual trading ban on the public interest in hedging or price basing at the affected contract market.

"(D) The Commission shall provide the affected contract market with adequate notice of any such increase or decrease.

"(5) Before the Commission denies an application for an exemption under paragraph (3) or exempts a contract market subject to conditions, it shall—

"(A) provide the affected board of trade with notice of the reason or reasons that the application was not approved as submitted, including—

"(i) any reason the Commission has to believe that the trade monitoring system in place at the contract market does not satisfy the requirements of paragraph (3)(A) and the basis for such reason;

"(ii) any corrective action or actions, such as those described in section 8e, that the Commission believes the affected contract market must take to satisfy the requirements of paragraph (3)(A), and an acceptable timetable for such corrective action; and

"(iii) any conditions or limitations that the Commission proposes to attach to the exemption under paragraph (3);

"(B) provide the affected board of trade with an opportunity for a hearing through submission of written data, views, or arguments and, under terms set by the Commission at the request of the board of trade, through an oral presentation of views and comments to the Commission, in order to make the demonstration required under paragraph (3) or otherwise to petition the Commission with respect to its application; and

"(C) make findings, based on the information, views, and arguments place before it in connection with the application, as to whether—

"(i) the standard in either paragraph (3)(A) or (3)(B) applies; and

"(ii) any conditions or limitations which the Commission proposes to attach under paragraph (3) are appropriate in light of the purposes of this subsection.

The Commission shall publish in the Federal Register notice of any exemptive petitions filed under paragraph (3) and any proposed or final actions the Commission may take on such petitions.

"Unless the Commission determines that more immediate action is appropriate in the public interest, any Commission order denying an application or exempting a contract market conditionally shall not take effect for at least 20 days following the issuance of the order.

"(6) Violation of an order issued under this subsection shall be considered a violation of an order of the Commission for purposes of—

"(i) establishing liability and assessing penalties against a contract market or any director, officer, agent, or employee thereof under section 6b or 6c; or

"(ii) initiating proceedings under section 5b or 6(a).

"(7) Any board of trade which has applied to the Commission to exempt a contract market from the regulations issued under paragraph (1) may obtain judicial review of any final action of the Commission to deny such application, to

issue an exemption subject to conditions, or to revoke an exemption, only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, under the standards applicable to rulemaking proceedings under section 553 of title 5, United States Code.

"(8)(A) The Commission shall issue the regulations required under paragraph (1) not later than 270 days after the enactment of this section. If, prior to the effective date of the prohibition on dual trading under such regulations, a board of trade submits to the Commission an application for an exemption for a contract market under paragraph (3), the Commission shall not apply the prohibition against dual trading under paragraph (1) to the contract market until the Commission has approved or denied the application.

"(B) The Commission shall approve or deny any application for an exemption under paragraph (3) within 75 days after receipt of the application, or as soon as practicable.".

**SEC. 102. RESTRICTIONS ON TRADING AMONG MEMBERS OF BROKER ASSOCIATIONS.**

(a) IN GENERAL.—Section 4j (7 U.S.C. 6j) is amended by adding at the end the following new subsection:

"(d)(1) Except as provided in paragraph (2), a floor broker may not execute an order of a customer if such floor broker knows the opposite party to the transaction to be a floor broker or floor trader with whom such trader or broker has a relationship involving trading on such contract market as—

"(A) a partner in a partnership;

"(B) an employer or employee; or

"(C) such other affiliation as the Commission may specify by rule.

"(2) Paragraph (1) shall not apply—

"(A) if the Commission has adopted rules that the Commission certifies to Congress require procedures and standards designed to prevent violations of this Act attributable to the trading described in paragraph (1); or

"(B) to any contract market that has implemented rules designed to prevent violations of this Act attributable to the trading desribed in paragraph (1), except that, if the Commission determines, by rule or order, that such rules are not adequate to prevent such violations, paragraph (1) shall become effective with respect to such contract market after a resonable period determined by the Commission.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective 270 days afte the date of enactment of this Act.

**SEC. 103. BROKER ASSOCIATION DISCLOSURE.**

Subsection (a) of section 5a (7 U.S.C. 7a) (as amended by sections 201(a)(1) and 217 of this Act) is further amended—

(1) by striking "and" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(13) provide for disclosure to the contract market and the Commission of any trade, business, or financial partnership, cost-, profit-, or capital-sharing agreements or other formal arrangement among or between floor brokers and traders on such contract market where such partnership agreement or arrangement is material and known to the floor broker or floor trader;".

## TITLE II—ENHANCEMENT OF REGULATORY AND ENFORCEMENT ACTIVITIES

**SEC. 201. DUTIES OF CONTRACT MARKETS: AUTIT TRIALS.**

(a) IN GENERAL.—Section 5a (7 U.S.C. 7a) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b)(1) Each contract market shall maintain and utilize a system to monitor trading to detect and deter violations of the contract market's rules and regulations committed in the making of trades and the execution of customer orders on the floor or subject to the rules of such contract market. The system shall include—

"(A) physical observation of trading areas;

"(B) audit trial and recordkeeping systems able to capture esential data on the terms, participants, and sequence of transactions (including relevant data on unmatched trades and outtrades);

"(C) systems capable of reviewing, and used to review, data on trades effectively on a regular basis to detect violations committed in making trades and executing customer orders on the floor or subject to the rules of such contract market, including—

"(i) all types of violations attributable to dual trading; and

"(ii) to the full extent feasible, as determined by the Commission, all other types of violations involving the making of trades and the execution of customer orders;

"(D) the use of information gathered through such system on a consistent basis to bring appropriate disciplinary actions against violators;

"(E) the commitment of resources to such system necessary for such system to be effective in detecting and deterring such violations, including adequate staff to develop and prosecute disciplinary actions; and

"(F) the assessment of meaningful penalties against violators and the referral of appropriate cases to the Commission.

"(2) The audit trail system of the contract market shall, consistent with Commission regulations, accurately record—

"(A) the times of trades in increments of no more than 1 minute in length; and

"(B) the sequence of trades for each floor trader and broker.

"(3) Beginning 3 years after the date of enactment of this subsection, the audit trail system of each contract market, except as provided in paragraph (5) and except to the extent the Commission determines that circumstances beyond the control of the contract market prevent compliance despite the contract market's affirmative good faith efforts to comply, shall—

"(A) for all trades, record accurately and promptly the essential data on terms, participants, and times as required by the Commission by rule, including the time of execution of such trade, through a means that—

"(i) records such data in a form which cannot be altered except in a manner that will leave a complete and independent record of such alteration;

"(ii) continually provides such data to the contract market;

"(iii) identifies such time, to the extent practicable as determined by the Commission—

"(I) independently of the person making the trade;

"(II) through a mechanism that records the time automatically when entered by the person making the trade; or

"(III) through such other means that will capture a similarly reliable time; and

"(iv) is adequately precise to determine, to the extent practicable as determined by the Commission by rule or order—

"(I) the sequence of all trades by each floor trader; and

"(II) the sequence of all trades by each floor broker; and

"(B) to the extent practicable as determined by the Commission by rule or order, for customer trades, record the time that each order is received on the floor of the board of trade, is received by the floor broker for execution (or when such order is transmitted in an extremely rapid manner to the broker), and is reported from the floor of the board of trade as executed, through a means that—

"(i) records such times in a form which cannot be altered except in a manner that will leave a complete and independent record of such alteration;

"(ii) continually provides such data to the contract market;

"(iii) identifies such time—

"(I) independently of the person making the trade or processing the order;

"(II) through a mechanism that records the time automatically when entered by the person making the trade or processing the order, as appropriate; or

"(III) through such other means as will capture a similarly reliable time; and

"(iv) is adequately precise to determine—

"(I) the sequence in which, for each futures commission merchant, floor broker, or member firm, as applicable, all orders are received on and reported from the floor of the contract market; and

"(II) the sequence in which orders are received by each floor broker for execution.

"(4) The Commission may, by rule, establish standards under which the audit trail systems required under paragraph (3) shall record, to the extent practicable—

"(A) the sequence of all trades made by all floor traders and floor brokers; and

"(B) the interval between the time of receipt and the time of execution of each order by the floor broker executing the order.

"(5)(A) The Commission shall, by rule or order, make exemptions from the requirements of paragraph (3)—

"(i) for an exchange with respect to which the Commission finds that—

"(I) the volume of trading on such exchange is relatively small and the exchange has demonstrated substantial compliance with the objectives of such paragraph; and

"(II) the trade monitoring system at such exchange otherwise maintains a high level of compliance with this subsection; and

"(ii) to the extent determined appropriate by the Commission, for categories of customer orders with respect to which the Commission finds that such orders are transmitted to and reported from the trading pit in an extremely rapid manner such that substantial compliance with the objectives of paragraph (3) can be otherwise achieved.

"(B) For purposes of subparagraph (A)(i)(I) the Commission shall find that the volume of trading at an exchange is relatively small if, among other things, the Commission determines that the average daily trading volume for each contract market for which the board of trade is designated is less than the threshold trading level established for the contract market under section 4j(a)(4).

"(6) Any rule or order adopted by the Commission under paragraphs (4) and (5) shall become effective 30 legislative days or 90 calendar days, whichever is later, after submission of such rule or order to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. For purposes of this paragraph, the term 'legislative day' means any day on which either House of Congress is in session.

(b) Study.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Commodity Future Trading Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agri-

culture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains—

(A) an assessment of the progress of each contract market in developing and implementing systems to record the times of transactions independently, precisely, and completely as required under section 5a(b) of the Commodity Exchange Act (as added by subsection (a) of this section); and

(B) recommendations as to whether any extension of time for the completion of such systems or any modification of the standards contained in such section is appropriate.

(2) GAO Views.—The Comptroller General of the United States shall state to Congress the views of the Comptroller General with regard to the issues addressed in such report.

(c) AUDIT TRAIL COMPLIANCE AS CONDITION FOR CONTRACT MARKET DESIGNATION.—Section 5 (7 U.S.C. 7) is amended by—

(1) indenting the left margin of subdivisions (a) through (g) by 2 ems;

(2) striking "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", and "(g)", and inserting "(1)", "(2)", "(3)", "(4)", "(5)", "(6)", and "(7)", respectively; and

(3) adding at the end the following:

"(8) When such board of trade demonstrates that every contract market for which such board of trade is designated complies with the requirements of section 5a(b).".

**SEC. 202. COMMISSION OVERSIGHT; DEFICIENCY ORDERS.**

(a) IN GENERAL.—The Act is amended by inserting after section 8d (7 U.S.C. 12d) the following new section:

**"SEC. 8e. COMMISSION OVERSIGHT; DEFICIENCY ORDERS.**

"(a) ASSESSMENTS.—At least once every 2 years, to the extent practicable, the Commission shall assess whether the trade monitoring system of each contract market satisfies section 5a(b).

"(b) DEFICIENCY ORDERS.—

"(1) CAUSES.—The Commission may issue a proposed deficiency order in accordance with paragraph (2), or take such other administrative or enforcement action as the Commission determines is appropriate, if, based on its assessment or on other information, the Commission at any time has reason to believe that a contract market's trade monitoring system implemented pursuant to section 5a(b) does not satisfy one or more of the requirements of such section.

"(2) CONTENTS.—A proposed deficiency order issued under this subsection shall specify—

"(A) the deficiencies the Commission has reason to believe exist in the trade monitoring system of the contract market and a statement of reasons supporting the Commission's belief that those deficiencies exist;

"(B) the corrective action that the Commission believes that the contract market must take and an acceptable timetable for such corrective action; and

"(C) a date, not less than 20 days from the date of issuance of the proposed deficiency order, when such deficiency order will become final, subject to subsection (d).

"(3) REMEDIES.—On becoming final, the Commission deficiency order may—

"(A) require the contract market to—

"(i) institute appropriate improvements in its trade monitoring system necessary to correct the deficiencies noted therein;

"(ii) satisfy stated objective performance criteria to correct such deficiencies;

"(iii) upgrade or reconfigure existing systems for collecting or processing relevant data on trading and trader or broker activity, including, where appropriate, the commitment of additional resources; or

"(B) revoke any exemption of the contract market from the regulations prohibiting the privilege of dual trading under section 4j(a), if the deficiency noted in such deficiency order relates to—

"(i) the audit trail system the contract market is required to maintain under paragraphs (2), (3), or (4) of section 5a(b); or

"(ii) the prevention, detection, or disciplining of violations attributable to such trading at such contract market, subject to the standards, exceptions, and duration provisions of section 4j(a); or

"(C) take any combination of the actions described in subparagraphs (A) and (B).

"(4) REMOVAL.—If the Commission finds, after notice and opportunity for a hearing on the record prior to such deficiency order becoming final, that a named officer, director, committee member, or employee of such contract market has willfully—

"(A) violated this Act, the rules or regulations of the Commission thereunder, or the rules of such contract market;

"(B) abused the authority of such person; or

"(C) without reasonable justification or excuse, failed to enforce compliance with any provision of the rules of such contract market by any member or person associated with a member thereof,

the Commission may issue a deficiency order under this section to remove such officer, director, committee member, or employee.

"(5) DESIGNATION AS CONTRACT MARKET.—Notwithstanding section 6, during the period that a proposed or final deficiency order under this section is in effect, the Commission may refrain from approving any application for designation as a contract market made by the board of trade whose contract market is the subject of such deficiency order.

"(6) DELEGATION.—The Commission shall not delegate the authority to issue deficiency orders under this subsection.

"(c) RESCISSION, MODIFICATION, OR DELAY OF DEFICIENCY ORDERS.—Before any proposed deficiency order issued by the Commission under subsection (b) may become final, the Commission shall—

"(1) provide the affected contract market with an opportunity for a hearing through submission of written data, views, or arguments and, under terms set by the Commission at the request of the contract market, through an oral presentation of views and comments to the Commission, in order to petition the Commission to rescind, modify, or delay such deficiency order; and

"(2) rule on such petition, not less than 20 days before the deficiency order takes effect, making findings, as appropriate, as to whether—

"(A) the deficiencies cited by the Commission have been corrected or are being corrected under an expeditious timetable acceptable to the Commission;

"(B) the trade monitoring system of the contract market is deficient as noted in the deficiency order; or

"(C) the timetable for corrective action by the contract market in the proposed deficiency order, and the particular corrective action proposed, is appropriate in light of the deficiencies noted and the purposes of this Act.

"(d) PENALTIES.—Violation of a final deficiency order issued under subsection (c) shall be considered a violation of an order of the Commission for purposes of—

"(1) establishing liability and assessing penalties against a contract market or any director, officer, agent, or employee thereof under section 6b or 6c; or

"(2) initiating proceedings under section 5b or 6(a).

"(e) JUDICIAL REVIEW.—

"(1) PERSONS.—Any person, other than a contract market, aggrieved by a deficiency order issued under subsection (b)(4), may obtain review of such deficiency order when issued by the Commission under the terms and conditions in section 6(b).

"(2) CONTRACT MARKETS.—Any contract market that has petitioned the Commission to rescind, modify, or delay any proposed deficiency order issued under subsection (b) may obtain judicial review of any final such deficiency order only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, under the standards applicable to rulemaking proceedings under section 553 of title 5, United States Code.".

**SEC. 203. ORAL ORDERS.**

(a) IN GENERAL.—Section 4c (7 U.S.C. 6c) is amended by adding at the end the following new subsection:

"(g) The Commission shall adopt rules requiring that a contemporaneous written record be made, as practicable, of all orders for execution on the floor or subject to the rules of each contract market placed by a member of the contract market who is present on the floor at the time such order is placed.".

(b) EFFECTIVE DATE.—The commission shall adopt the rules required by the amendment made under subsection (a) within 270 days after the date of enactment of this Act.

**SEC. 204. TELEMARKETING FRAUD.**

(a) IN GENERAL.—Section 17(p) (7 U.S.C. 321(p)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) establish special supervisory guidelines to protect the public interest relating to the solicitation by telephone of new futures or options accounts and make such guidelines applicable to those members determined to require such guidelines in accordance with standards established by the Commission consistent with this Act. Such guidelines may include a requirement that, with respect to a customer with no previous futures or commodity options trading experience, the member may not enter an order for the account of such customer for a period of 3 days following opening of the account and receipt of a signed acknowledgment by the customer of receipt of a risk disclosure statement.".

(b) IMPLEMENTATION.—The guidelines required under section 17(p)(4) of the Commodity Exchange Act (as added by subsection (a) of this section) shall be submitted by a futures association registered with the Commodity Futures Trading Commission on the date of enactment of this Act to the Commission for the approval of the Commission not later than 180 days after the date of enactment of this Act.

**SEC. 205. UNDERCOVER OPERATIONS AND ENFORCEMENT.**

Section 8(a) of the Commodity Exchange Act (7 U.S.C. 12(a)) is amended by—

(1) inserting "(1)" after "(a)"; and

(2) adding at the end the following:

"(2) In conducting investigations authorized under this subsection or any other provision of this Act, the Commission shall continue, as the Commission determines necessary, to request the assistance of and cooperate with the appropriate Federal agencies in the conduct of such investigations, including undercover operations by such agencies. The Commission and the Department of Justice shall assess the effectiveness of such undercover operations and, within 2 years of the date of enactment of the Futures Trading Practices Act of 1992, shall recommend to Congress any additional undercover or other authority for the Commission that the Commis-

sion or the Department of Justice believes to be necessary.".

**SEC. 206. SELF REGULATORY ORGANIZATION DISCIPLINARY COMMITTEES AND GOVERNING BOARDS.**

(A) CONTRACT MARKETS.—

(1) GOVERNING BOARDS AND DISCIPLINARY COMMITTEES.—Subsection (a) of section 5a (7 U.S.C. 7a) (as amended by sections 201(a)(1) and 217 of this Act) is further amended by adding at the end the following new paragraphs:

"(14)(A) provide for meaningful representation on the governing board of the contract market's board of trade of a diversity of interests, including—

"(i) futures commission merchants;

"(ii) producers of, and consumers, processors, distributors, or merchandisers of, principal commodities traded on the board of trade;

"(iii) floor brokers and traders; and

"(iv) participants in a variety of pits or principal groups of commodities traded on the exchange.

"(B) provide that no less than 20 percent of the regular voting members of such board be comprised of nonmembers of such contract market's board of trade with—

"(i) expertise in futures trading, or the regulation thereof, or in commodities traded through contracts on the board of trade; or

"(ii) other eminent qualifications making such person capable of participating in and contributing to board deliberations.

"(C) provide that no less than 10 percent of the regular voting members of such board be comprised where applicable of farmers, producers, merchants, or exporters of principal commodities traded on the exchange;

"(15)(A) provide on all major disciplinary committees for a diversity of membership sufficient to ensure fairness and to prevent special treatment or preference for any person in the conduct of disciplinary proceedings and the assessment of penalties.

"(B) Consistent with Commission rules, a major disciplinary committee hearing a disciplinary matter shall include—

"(i) a majority of qualified persons representing a trading status other than that of the subject of the proceeding; and

"(ii) where appropriate to carry out the purposes of this Act, qualified persons who are not members of the exchange.

"(C) For purposes of this paragraph, a trading status on a contract market may include, consistent with Commission rules, such categories as (i) floor brokers and traders; (ii) producers, consumers, processors, distributors, or merchandisers of commodities, (iii) futures commission merchants; and (iv) members of the aforementioned categories who participate in particular contract markets or principal groups of commodities on the board of trade.

"(D) If a contract market takes final disciplinary action against a member for a violation that involves the execution of a customer transaction and results in financial harm to such customer, the contract market shall promptly inform the futures commission merchant identified on the records of such contract market as having cleared such transaction, and such futures commission merchant shall promptly inform the person identified on its records as the owner of the account for which such transaction was executed, of the disciplinary action and the principal facts thereof;

"(16) provide that no member found by the Commission, a contract market, a registered futures association, or a court of competent jurisdiction to have committed any violation of this Act or any other provision of law that would reflect on the fitness of the member may serve on any contract market oversight or disciplinary panel for an appropriate period (as defined by Commission rule); and".

(2) Major disciplinary rule violations.—Section 8c (7 U.S.C. 12c) is amended—

(A) by redesignating subsections (1) through (4) as subsections (a) through (d);

(B) in subsection (a), as so redesignated—

(i) by striking "(A)" and inserting "(1)"; and

(ii) by striking "(B)" and inserting "(2)";

(C) in subsection (c), as so redesignated, by striking "subsection (2)" each place it appears and inserting "subsection (b)";

(D) in subsection (d), as so redesignated, by striking "subsection (1)" and inserting "subsection (a)"; and

(E) by adding at the end the following:

"(e)(1) The Commission shall issue regulations requiring each contract market to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such contract market.

"(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any individual who is found to have committed any major violation from service on the governing board of any contract market or registered futures association, or on any disciplinary committee thereof.".

(b) Registered Futures Associations.—

(1) Governing boards and disciplinary committees.—Section 17(b) (7 U.S.C. 21(b)) is amended—

(A) in subparagraphs (A) and (B) of paragraph (3) by striking "or" at the end;

(B) in paragraphs (3)(D), (4)(A), (4)(B), (4)(C), (4)(D), (4)(F), (5), (6), (7), (8), (9), (9)(A), (9)(B), and (9)(D) by striking the period at the end and inserting a semicolon;

(C) in paragraphs (4)(E), (9)(C), and (10) by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new paragraphs:

"(11) such association provides for meaningful representation on the governing board of such association of a diversity of membership interests and provides that no less than 20 percent of the regular voting members of such board be comprised of qualified nonmembers of or persons who are not regulated by such association.

"(12)(A) such association provides on all major disciplinary committees for a diversity of membership sufficient to ensure fairness and to prevent special treatment or preference for any person in the conduct of disciplinary proceedings and the assessment of penalties.

"(13) A major disciplinary committee hearing a disciplinary matter shall include—

"(A) qualified persons representing segments of the association membership other than that of the subject of the proceeding; and

"(B) where appropriate to carry out the purposes of this paragraph, qualified persons who are not members of the association.".

(2) MAJOR DISCIPLINARY RULE VIOLATIONS.—Section 17 (7 U.S.C. 21), as amended by section 204, is amended by inserting after subsection (p) the following:

"(q)(1) The Commission shall issue regulations requiring each registered futures association to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such registered futures association.

"(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any member of a registered futures association who is found to have committed any major violation from service on the governing board of any registered futures association or contract market, or on any disciplinary committee thereof.".

(c) IMPLEMENTATION.—Not later than 270 days after the date of enactment of this Act, the Commodity Futures Trading Commission shall adopt such rules as are necessary to carry out the amendments made by subsections (a) and (b), including rules that—

(1) specify membership categories that shall be represented on disciplinary panels;

(2) define "major disciplinary committee" for purposes of sections 5a(a)(15) and 17(b)(12) of the Commodity Exchange Act (as added by subsections (a) and (b), respectively); and

(3) specify the conditions under which such panels shall include qualified persons who are not members of the exchange or association, which shall include at a minimum—

(A) any disciplinary action where the subject of such action is a member of the contract market or association governing board or of any major disciplinary committee of such contract market or association; and

(B) any disciplinary action based on facts related to a claim that the subject of such action manipulated or attempted to manipulate the price of a commodity or future or option.

**SEC. 207. REQUIRED REGISTRATION OF FLOOR TRADERS.**

(a) REQUIREMENT.—Section 4e (7 U.S.C. 6e) is amended to read as follows:

"Sec. 4e. It shall be unlawful for any person to act as floor trader in executing purchases and sales, or as floor broker in executing any orders for the purchase or sale, of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have registered, under this Act, with the Commission as such floor trader or floor broker and such registration shall not have expired nor been suspended nor revoked.".

(b) CONFORMING AMENDMENTS.—The Act is amended—

(1) in sections 4f(1), 4g(1), and 6d(1) (7 U.S.C. 6f(1), 6g(1), 13a–2(1)), by striking "or floor broker" and inserting "floor broker, or floor trader";

(2) in section 6d(8)(A) (7 U.S.C. 13a–2(8)(A)), by inserting ", floor trader," after "floor broker";

(3) in section 8a(1), (7 U.S.C. 12a(1)), by striking "and floor brokers" and inserting "floor brokers, and floor traders"; and

(4) in sections 8a(2)(C)(i), 8a(2)(D)(ii), and 8a(3)(E)(ii) (7 U.S.C. 12a(2)(C)(i), 12a(2)(D)(ii), and 12a(3)(E)(ii)), by inserting "floor trader," after "floor broker,".

(c) REGULATIONS.—The amendments made by this section shall become effective 180 days after the date of enactment of this Act, and the Commodity Futures Trading Commission shall issue any regulations necessary to implement the amendments made by this section no later than 180 days after the date of enactment of this Act.

**SEC. 208. ENHANCEMENT OF REGISTRATION REQUIREMENTS.**

(a) INJUNCTIONS.—Section 8a(2)(C)(ii) (7 U.S.C. 12a(2)(C)(ii)) is amended to read as follows:

"(ii) engaging in or continuing any activity where such activity involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, gambling, or any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 4c or 19, or concerning securities".

(b) CERTAIN VIOLATIONS OF LAW.—Section 8a(2)(D)(iv) (7 U.S.C. 12a(2)(D)(iv)) is amended by—

(1) inserting "1001," after "152,";

(2) striking "or" after "1342,";

(3) inserting "1503, 1623, 1961, 1962, 1963, or 2314," after "1343,"; and

(4) inserting ", or section 7201 or 7206 of the Internal Revenue Code of 1986" after "Code".

(c) OTHER VIOLATIONS OF LAW.—Section 8a(2)(E) (7 U.S.C. 12a(2)(E)) is amended—

(1) by striking "by any court of competent jurisdiction," and inserting "in a proceeding brought"; and

(2) in clause (i) by inserting "chapter 96 of title 18 of the United States Code," after "1977,".

(d) REGISTRATION REVOCATION BASED ON INACCURATE STATEMENTS.—Section 8a(2)(G) (7 U.S.C. 12a(2)(G)) is amended by—

(1) striking "subparagraphs (A) through (F) of this paragraph," and inserting "this paragraph and paragraph (3),";

(2) striking "material" the first place it appears and inserting "materially"; and

(3) striking "application" and inserting "application or any update thereto".

(e) GENERAL FELONY CONVICTIONS.—Section 8a(3)(D) (7 U.S.C. 12a(3)(D)) is amended by—

(1) inserting "pleaded guilty to or" after "person";

(2) inserting a comma after "section" the first place it appears;

(3) striking "within ten years preceding the filing of the application or at any time thereafter,";

(4) striking ", including a felony"; and

(5) striking ", more than" and inserting "more than".

(f) SPECIAL FELONY CONVICTIONS.—Section 8a(3)(E) (7 U.S.C. 12a(3)(E)) is amended—

(1) by inserting "pleaded guilty to or" after "person";

(2) by striking "within two years preceding the filing of the application for registration or at any time thereafter"; and

(3) in clause (iv) by inserting ", or section 7203, 7204, 7205, or 7207 of the Internal Revenue Code of 1986" after "Code".

(g) REGISTRATION DENIED OR CONDITIONED BASED ON INACCURATE STATEMENTS.—Section 8a(3)(G) (7 U.S.C. 12a(3)(G)) is amended by—

(1) striking "material" the first place it appears and inserting "materially";

(2) striking the comma after "application";

(3) inserting "or any update thereto," after "application";

(4) striking "thereunder, or" and inserting "thereunder,"; and

(5) inserting "or in any registration disqualification proceeding" after "Commission".

(h) NON-FEDERAL CRIMINAL CONDUCT.—Section 8a(3)(H) (7 U.S.C. 12a(3)(H)) is amended by inserting ", in a United States military court," after "State court".

(i) EXISTING RESTRICTIONS ON MEMBERSHIPS.—Section 8a(3)(J) (7 U.S.C. 12a(3)(J)) is amended by—

(1) striking "or" after "association," the first place it appears;

(2) inserting "or any foreign regulatory body that the Commission recognizes as having a comparable regulatory program," after "organization," the first place it appears;

(3) striking "or" after "association," the second place it appears; and

(4) striking "organization;" and inserting "organization, or foreign regulatory body;".

**SEC. 209. ENFORCEMENT OF CIVIL MONEY PENALTIES.**

(a) MONEY PENALTIES.—Section 6 (7 U.S.C. 8 et seq.) is amended—

(1) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively;

(2) by inserting "(a)" after "Sec. 6.";

(3) in subsection (a), as so redesignated, by striking "paragraph (a)" and inserting "subsection (b)";

(4) in subsection (d), as so redesignated—

(A) by striking "paragraph (b) of this section" and inserting "subsection (c)"; and

(B) by striking "section 6(b) of this Act" and inserting "subsection (c)"; and

(5) by amending subsection (e), as so redesignated, to read as follows:

"(e)(1) In determining the amount of the money penalty assessed under subsection (c), the Commission shall consider the appropriateness of such penalty to the gravity of the violation.

"(2) Unless the person against whom a money penalty is assessed under subsection (c) shows to the satisfaction of the Commission within 15 days from the expiration of the period allowed for payment of such penalty that either an appeal as authorized by subsection (c) has been taken or payment of the full amount of the penalty then due has been made, at the end of such 15-day period and until such person shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made—

"(A) such person shall be prohibited automatically from trading on all contract markets; and

"(B) if such person is registered with the Commission, such registration shall be suspended automatically.

"(3) If a person against whom a money penalty is assessed under subsection (c) takes an appeal and if the Commission prevails or the appeal is dismissed, unless such person shows to the satisfaction of the Commission that payment of the full amount of the penalty then due has been made by the end of 30 days from the date of entry of judgment on the appeal—

"(A) such person shall be prohibited automatically from trading on all contract markets; and

"(B) if such person is registered with the Commission, such registration shall be suspended automatically.

If the person against whom the money penalty is assessed fails to pay such penalty after the lapse of the period allowed for appeal or after the affirmance of such penalty, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.".

(b) CONFORMING AMENDMENTS.—The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended—

(1) in section 2(a)(1)(B)(iv)—

(A) in subclause (I) by striking "section 6(b)" and inserting "section 6(c)"; and

(B) in subclause (II) by striking "section 6(a)" and inserting "section 6(b)";

(2) in section 5(6), as so redesignated by section 201(c)(2), by striking "paragraph (b) of section 6" and inserting "section 6(c)";

(3) in section 5b by striking "paragraph (a) of section 6" and inserting "section 6(b)";

(4) in section 6a(1) by striking "paragraph (a) of section 6" and inserting "section 6(b)";

(5) in section 6b by striking "paragraph (a) of section 6" and inserting "section 6(b)";

(6) in section 8a—

(A) in the first proviso to paragraph (2) by striking "section 6(b)" and inserting "section 6(c)";

(B) in the second proviso to paragraph (3) by striking "section 6(b)" and inserting "section 6(c)"; and

(C) in paragraph (4) by striking "section 6(b)" each place it appears and inserting "section 6(c)";

(7) in section 14(e) by striking "paragraph (b) of section 6" and inserting "section 6(c)"; and

(8) in section 17—

(A) in subsection (b)—

(i) in paragraph (3)(B) by striking "section 6(b)" and inserting "section 6(c)"; and

(ii) in paragraph (4)(F) by striking "subsection (b) of section 6" and inserting "section 6(c)";

(B) in subsection (i)(4) by striking "section 6(b)" and inserting "section 6(c)"; and

(C) in subsection (o)(4) by striking "section 6(b)" and inserting "section 6(c)".

**SEC. 210. ETHICS TRAINING FOR REGISTRANTS.**

(a) MANDATORY TRAINING FOR REGISTRANTS.—Section 4p (7 U.S.C. 6p) is amended by —

(1) inserting "(a)" after "sec. 4p."; and

(2) adding at the end the following:

"(b) The Commission shall issue regulations to require new registrants, within 6 months after receiving such registration, to attend a training session, and all other registrants to attend periodic training sessions, to ensure that registrants understand their responsibilities to the public under this Act, including responsibilities to observe just and equitable principles of trade, any rule or regulation of the Commission, any rule of any appropriate contract market, registered futures association, or other self-regulatory organization, or any other applicable Federal or state law, rule or regulation.".

(b) REGULATIONS.—The Commodity Futures Trading Commission shall issue the regulations required by section 4p(b) of the Commodity Exchange Act, as added by subsection (a), no later than 180 days after the date of enactment of this Act.

**SEC. 211. NATIONWIDE SERVICE OF PROCESS AND VENUE.**

Section 22(c) (7 U.S.C. 25(c)) is amended to read as follows:

"(c) The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action shall be brought not later than 2 years after the date the cause of action arises. Any action brought under subsection (a) of this section may be brought in any judicial district wherein the defendant is found, resides, or transacts business, or in the judicial district wherein any act or transaction constituting the violation occurs. Process in such action may be served in any judicial district of which the defendant is an inhabitant or wherever the defendant may be found.".

**SEC. 212. INCREASED PENALTIES.**

(a) FELONY VIOLATIONS.—Section 9 (7 U.S.C. 13) is amended—

(1) by—

(A) striking subsections (a), (b), and (c);

(B) redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(C) inserting before subsection (c), as redesignated, the following new subsections:

"(a) It shall be a felony punishable by a fine of not more than $1,000,000 (or $500,000 in the case of a person who is an individual) or imprisonment for not more than 5 years, or both, together with the costs of prosecution, for:

"(1) Any person registered or required to be registered under this Act, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to such person's use or to the use of another, any money, securities, or property having a value in excess of $100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts or which otherwise was received from any customer, client, or pool participant in connection with the business of such person. The word 'value' as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

"(2) Any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market, or to corner or attempt to corner any such commodity or knowingly to deliver or cause to be delivered for transmission through the mails or interstate

commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, or knowingly to violate the provisions of section 4, section 4b, subsections (a) through (e) of subsection 4c, section 4h, section 40(1), or section 19.

"(3) Any person knowingly to make, or cause to be made, any statement in any application, report, or document required to be filed under this Act or any rule or regulation thereunder or any undertaking contained in a registration statement required under this Act, or by any contract market or registered futures association in connection with an application for membership or participation therein or to become associated with a member thereof, which statement was false or misleading with respect to any material fact, or knowingly to omit any material fact required to be stated therein or necessary to make the statements therein not misleading.

"(4) Any person willfully to falsify, conceal, or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry to a contract market, board of trade, or futures association designated or registered under this Act acting in furtherance of its official duties under this Act.

"(5) Any person willfully to violate any other provision of this Act, or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, but no person shall be subject to imprisonment under this paragraph for the violation of any rule or regulation if such person proves that he had no knowledge of such rule or regulation.

"(b) Any person convicted of a felony under this section shall be suspended from registration under this Act and shall be denied registration or reregistration for 5 years or such longer period as the Commission may determine, and barred from using, or participating in any manner in, any market regulated by the Commission for 5 years or such longer period as the Commission shall determine, on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.";

(2) in subsection (c) (as redesignated by paragraph (1) of this section) by striking "$100,000" and inserting "$500,000"; and

(3) in subsection (d) (as redesignated by paragraph (1) of this section) by striking "$100,000" and inserting "$500,000".

(b) OTHER VIOLATIONS.—Sections 6(c) and 6(d) (7 U.S.C. 9 and 13b), as such subsections are redesignated by section 209, are each amended by striking "$100,000" each place it appears and inserting "the higher of $100,000 or triple the monetary gain to such person".

(b) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b (7 U.S.C. 13a) is amended—

(1) by striking "$100,000" each place it appears and inserting "$500,000"; and

(2) in the last sentence, by striking "the appropriateness of such penalty to the net worth of the offending person and".

**SEC. 213. CONTRACT MARKET EMERGENCY ACTIONS.**

(a) PRIOR COMMISSION NOTIFICATION REQUIRED.—Section 5a(a)(12) (7 U.S.C. 7a(12)), as redesignated by section 201, is amended—

(1) by striking "(12) except" and inserting "(12)(A) except"; and

(2) by striking the last two sentences of paragraph (12)(A), as so redesignated, and inserting the following:

"(B)(i) The Commission shall issue regulations to specify the terms and conditions under which, in an emergency as defined by the Commission, a contract market may, by a two-thirds vote of its governing board, make a rule (hereinafter referred to as an 'emergency rule') effective on a temporary basis without prior Commission approval, or without compliance with the 10-day notice requirement under subparagraph (A), or during any period of review by the Commission, if the contract market makes every effort practicable to notify the Commission of such emergency rule, along with a complete explanation of the emergency involved, prior to making the emergency rule effective. If the contract market does not provide the Commission with such notification and explanation before making the emergency rule effective, the contract market shall provide the Commission with such notification and explanation at the earliest possible date. The Commission may delegate the power to receive such notification and explanation to such individuals as the Commission determines necessary and appropriate.

(ii) Within 10 days of the receipt from a contract market of notification of such an emergency rule and an explanation of the emergency involved, or as soon as practicable, the Commission shall determine whether it is appropriate either—

"(I) to permit such rule to remain in effect during the pendency of the emergency, or

"(II) to suspend the effect of such rule pending review either under the procedures of subparagraph (A) or otherwise.

The Commission shall submit a report on its determination and the basis thereof with respect to such emergency rule to the affected contract market, to the Committee on Agriculture of the House of Representatives and the Committee Agriculture, Nutrition, and Forestry of the Senate. If the report is submitted more than 20 days after the Commission's receipt of notification of such an emergency rule from a contract market, the report shall explain why submission within such 10-day period was not practicable. A determination by the Commission to suspend the effect of a rule under this subparagraph shall be subject to judicial review on the same basis as an emergency determination under section 8a(9). Nothing in this paragraph shall be construed to limit the authority of the Commission under section 8a(9);".

(b) REGULATIONS.—The Commodity Futures Trading Commission shall issue regulations to implement section 5a(12)(B) of the Commodity Exchange Act, as added by subsection (a), no later than 180 days after the date of enactment of this Act. Until the effective date of such regulations, any regulation of the Commission that implements the last 2 sentences of section 5a(12), as such sentences were in effect immediately before the date of enactment of this Act, shall remain in effect.

**SEC. 214. PROHIBITION AGAINST INSIDER TRADING.**

(a) IN GENERAL.—Section 9 (7 U.S.C. 13) is amended by adding at the end the following:

"(f) It shall be a felony for any person—

(1) who is an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association, in violation of a regulation issued by the Commission, willfully and knowingly to trade for such person's own account, or for or on behalf of any other account, in contracts for future delivery or options thereon on the basis of, or willfully and knowingly to disclose for any purpose inconsistent with the performance of such person's official duties as an employee or member, any material nonpublic information obtained through special access related to the performance of such duties.

(2) willfully and knowingly to trade for such person's own account, or for or on behalf of any account, in contracts for future delivery or options thereon on the basis of any material nonpublic information that such person knows was obtained in violation of paragraph (1) from an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association.

Such felony shall be punishable by a fine of not more than $500,000, plus the amount of any profits realized from such trading or disclosure made in violation of this subsection, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.".

(b) REGULATIONS.—The Commodity Futures Trading Commission shall issue regulations to implement the amendment made by subsection (a) not later than 360 days after the date of enactment of this Act.

**SEC. 215. QUALIFICATIONS OF COMMISSIONERS.**

Section 2(a)(2)(A) (7 U.S.C. 4a(a)(1)) is amended by striking the second and third sentences and inserting the following: "The Commission shall be composed of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall—

"(i) select persons who shall each have demonstrated knowledge in futures trading or its regulation, or the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services rights and interests covered by this Act; and

"(ii) seek to ensure that the demonstrated knowledge of the Commissioners is balanced with respect to such areas.".

**SEC. 216. COMMISSION OPERATIONS.**

Section 12(b)( (7 U.S.C. 16(b)) is amended—

(1) by designating the first through third sentences as paragraphs (1) through (3), respectively; and

(2) by adding at the end of the following new paragraph:

"(4) The Commission may request (in accordance with the procedures set forth in subchapter II of chapter 31 of title 5, United States Code) and the Office of Personnel Management shall authorize pursuant to the request, eight positions in the Senior Executive Service in addition to the number of such positions authorized for the Commission on the date of enactment of this sentence.".

**SEC. 217. PROHIBITION ON VOTING BY INTERESTED MEMBERS.**

Subsection (a) of section 5a (7 U.S.C. 7a) (as amended by sections 201(a) and 206(a)(1) of this Act) is further amended by adding at the end the following:

"(17)(A) provide for the avoidance of conflict of interest in deliberations by the governing board and any disciplinary and oversight committees. In order to comply with this subparagraph, each contract market shall adopt rules and procedures to require, at a minimum, that

"(i) any member of a governing board or a disciplinary or other oversight committee must abstain from confidential deliberations and voting on any matter where the named party in interest is the member, the member's employer, the member's employee, or any other person that has a business, employment, or family relationship with the member that warrants abstention by the member;

"(ii) any member of a governing board or a disciplinary or other oversight committee must abstain from voting on any significant action that would not be submitted to the Commission

for its prior approval, if as determined in accordance with regulations promulgated by the Commission, the member knowingly has a direct and substantial financial interest in the result of the vote, based either on positions held personally or at an affiliated firm;

"(iii) prior to the deliberations of the governing board, disciplinary board, or other oversight committee, acting directly or indirectly through an authorized member or contract market official, the positions of the members of such board or committee, and positions of the firm or firms with which such members are affiliated, are reviewed (provided, however, that no contract market or official, employee, member, other than the member whose position or positions are being reviewed, or agent thereof shall be subject to liability, except for liability in an action initiated by the Commission, for having conducted this review and for having taken or not taken further action); and

"(iv) the board or committee shall clearly reflect, in the minutes of such meeting, that the review required in clause (iii) occurred and any decisions by a member to abstain or by the board or committee whether to direct a member or members to abstain from deliberations or voting on the matter before the board or committee.

Any member prohibited from voting on a rule pursuant to this paragraph shall not be included in determining whether there has been a two-thirds vote of members of the governing board or committee as required by subparagraph (12).

"(B) For the purposes of this paragraph, the term 'significant action that would not be submitted to the Commission for its prior approval' includes—

"(i) any nonphyscial emergency rule; or

"(ii) any changes in margin levels designed to respond to extraordinary market conditions that are likely to have a substantial affect on prices in any contract traded on such contract market,

but does not include any rule not submitted for prior Commission approval because such rule is unrelated to terms and conditions of any contract traded on such market.

"(C) Notwithstanding the provisions of subparagraph (A)(ii), the Commission shall issue rules establishing the conditions under which a member of a board or committee who is required to abstain from voting on a significant action, as provided in subparagraph (A)(ii), may participate in deliberations on that action prior to such vote, where the member's participation is consistent with the public interest.".

**SEC. 218. STUDY OF ASSESSMENTS ON TRANSACTIONS.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study to determine whether—

(1) it is feasible to fund some or all of the enforcement and market surveillance activities of the Commodity Futures Trading Commission, as required by the amendments to the Commodity Exchange Act made by the Futures Trading Practices Act of 1992, through the imposition of an assessment on commodity futures and options transactions executed pursuant to the Commodity Exchange Act; and

(2) a program of assessment-based funding for some or all of such enforcement and market surveillance activities would better provide resources to the Commodity Futures Trading Commission to enable the Commission to—

(A) protect the interests of market users (including hedgers and speculators), producers of commodities traded on the futures markets, and the general public; and

(B) maintain and enhance the credibility of such futures and options markets.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the Comptroller General's determinations pursuant to subsection (a), together with any appropriate recommendations for the implementation of such a program of assessment-based funding for some or all of the Commodity Futures Trading Commission's enforcement and market surveillance activities.

**SEC. 219. COMPETITIVENESS STUDY.**

(a) IN GENERAL.—No later than 18 months following the enactment of this Act, the Commodity Futures Trading Commission shall study the competitiveness of boards of trade over which it has jurisdiction compared with the boards of trade (or their foreign equivalent) over which foreign futures authorities, as defined in section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)), have jurisdiction, and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of its findings with respect to—

(1) the overall competitive status of United States boards of trade in the world market;

(2) a comparison of applicable statutes, rules, or regulations as they relate to futures and options administered and enforced by the Commission and those administered and enforced by foreign futures authorities;

(3) any trends in, or movements of, volume of futures and options trading to or from United States boards of trade during the period of the study, and whether such trends or movements, if any, were the result of the adoption of statutes, regulations, or other enforcement mechanisms in foreign countries or the United States, as opposed to other competitive, economic, regional, or commercial factors;

(4) any significant harms or risks to the public interest, market users, traders, and commerce in relation to futures or options traded on such foreign boards of trade which may result from the absence of statutes, regulations, or other enforcement mechanisms in foreign countries or the United States or disparities in regulatory protections offered by United States and foreign authorities; and

(5) any recommendations the Commission may have as a result of the study to enhance the competitive status of United States boards of trade in the world market, or to enhance the regulation of markets in the global environment, that will not impair customer confidence in United States boards of trade.

(b) COOPERATION.—To promote the efficient use of resources, the Commission shall endeavor, as it determines appropriate, to obtain the assistance of the General Accounting Office, the Office of the United States Trade Representative, or other appropriate offices of the Federal Government in order to obtain information with regard to trading at foreign boards of trade and the regulation of such boards of trade by foreign futures authorities.

**SEC. 220. COMPUTERIZED FUTURES TRADING.**

(a) INTERNATIONAL COMPETITIVENESS OF ELECTRONIC TRADING SYSTEMS.—Section 12 (7 U.S.C. 16) (as amended by section 303 of this Act) is further amended by adding at the end the following new subsection:

"(g) Consistent with its responsibilities under section 18, the Commission is directed to facilitate the development and operation of computerized trading as an adjunct to the open outcry auction system. The Commission is further directed to cooperate with the Office of the United States Trade Representative, the Department of the Treasury, the Department of Commerce, and the Department of State in order to remove any trade barriers that may be imposed by a foreign nation on the international use of electronic trading systems.".

(b) STUDY—The Commodity Futures Trading Commission shall conduct a study to assess—

(1) the progress made under initiatives to conduct trading in futures and options subject to the jurisdiction of the Commission under the Commodity Exchange Act through systems of computers or by other electronic means; and

(2) whether the experience with such systems of trading indicates that they may be useful or effective to enhance access to the futures and options markets by potential market participants, improve the ability of the Commission to audit the activities of the futures and options markets, reduce the opportunity for trading abuses, and otherwise be in the public interest or raise other related issues.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under subsection (a), together with any appropriate recommendations.

**SEC. 221. MONEY PENALTIES IN CIVIL COURT ACTIONS.**

Section 6c (7 U.S.C. 13c) is amended—

(1) by designating the first, second, third, fourth, fifth, and sixth sentences as subsections (a), (b), (c), (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) (as so designated) the following new subsection:

"(d)(1) In any action brough under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation a civil penalty in the amount of not more than the higher of $100,000 or triple the monetary gain to the person for each violation.

"(2) If a person on whom such a penalty is imposed fails to pay the penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover the penalty by action in the appropriate United States district court.".

**SEC. 222. CIVIL DAMAGES; LIABILITY OF FUTURES COMMISSION MERCHANTS.**

(a) DUTIES OF CONTRACT MARKETS.—Subsection (a)(11) of section 5a (7 U.S.C. 7a) (as amended by section 201(a)(1) of this Act) is further amended—

(1) by striking "(i)" and inserting "(A)";

(2) by striking "voluntary and (ii)" and inserting "voluntary, (B)"; and

(3) by inserting after the word "market" the following: ", and (C) in the case of a claim arising from a violation in the execution of an order on the floor of a contract market, such procedure shall provide, to the extent appropriate—

"(i) for payment of actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(ii) where the violation is willful and intentional, for payment to the customer of punitive or exemplary damages, in addition to losses proximately caused by the violation, in an amount equal to no more than two times the amount of such losses. If punitive or exemplary damages are awarded against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of such order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy the award of punitive or exemplary dam-

ages if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation;".

(b) COMPLAINTS AGAINST REGISTERED PERSONS.—Section 14(a) (7 U.S.C. 18(a)) is amended by striking "awarding actual damages proximately caused by such violation." and inserting "awarding—

"(1) actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(2) in the case of any action arising from a willful and intentional violation in the execution of an order on the floor of a contract market, punitive or exemplary damages equal to no more than two times the amount of such actual damages. If an award of punitive or exemplary damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation.".

(c) REGISTERED FUTURES ASSOCIATIONS.—Section 17(b)(10) (7 U.S.C. 21(b)(10)) (as amended by section 206(b)(1) of this Act) is further amended—

(1) by striking "(i)" and inserting "(A)";

(2) by striking "voluntary and (ii)" and inserting "voluntary, (B)"; and

(3) by inserting after the word "association" the following: ", and (C) in the case of a claim arising from a violation in the execution of an order on the floor of a contract market, such procedure shall provide, to the extent appropriate—

"(i) for payment of actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(ii) where the violation is willful and intentional, for payment to the customer of punitive or exemplary damages, in addition to losses proximately caused by the violation, in an amount equal to no more than two times the amount of such losses. If punitive or exemplary damages are awarded against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of such order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy the award of punitive or exemplary damages if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation".

(d) PRIVATE RIGHTS OF ACTION.—Section 22(a) (7 U.S.C. 25(a)) is amended by adding at the end the following new paragraph:

"(3) In any action arising from a violation in the execution of an order on the floor of a contract market, the person referred to in paragraph (1) shall be liable for—

"(A) actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(B) where the violation is willful and intentional, punitive or exemplary damages equal to no more than two times the amount of such actual damages. If an award of punitive or exemplary damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation.".

**SEC. 223. CUSTOMER RESTITUTION.**

The tenth sentence of section 6(c) (7 U.S.C. 9) (as redesignated by section 209(a)(1) of this Act) is amended—

(1) by inserting "(1)" after "may" the first place it appears;

(2) by striking "and, if" and inserting "(2) if";

(3) by striking "may suspend" and inserting "suspend";

(4) by striking "and may" and inserting "(3)"; and

(5) by inserting before the period the following: "and (4) require restitution to customers of damages proximately caused by violations of such persons".

**SEC. 224. COMPLAINTS AGAINST REGISTERED PERSONS; CLASS ACTION SUITS.**

Section 14(a) (7 U.S.C. 18(a)) (as amended by section 222(b) of this Act) is further amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by adding at the end the following new paragraph:

"(2)(A) An action may be brought under this subsection by any one or more persons described in this subsection for and in behalf of such person or persons and other persons similarly situated, if the Commission permits such actions pursuant to a final rule issued by the Commission.

"(B) Not later than 270 days after the date of enactment of this paragraph the Commission shall propose and publish for public comment such rules as are necessary to carry out subparagraph (A). In developing such rules, the Commission shall consider the potential impact of such actions on resources available to the reparations system established under this Act and the relative merits of bringing such actions in Federal court.".

**SEC. 225. PENALTIES STUDY AND GUIDELINES.**

(a) STUDY.—The Commodity Futures Trading Commission shall study the penalties the Commission imposes against persons found to have violated the Commodity Exchange Act (7 U.S.C. 1 et seq.) and the penalties imposed by contract markets and registered futures associations against persons found to have violated their respective rules established under such Act.

(b) REPORT. Not later than 2 years after the date of enactment of this Act, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under subsection (a). The report shall—

(1) include an analysis of whether systematic differences exist among penalties imposed by various contract markets and registered futures associations for similar offense, and, if so, the causes of such differences;

(2) propose industry-wide guidelines or rules to make penalty levels among contract markets and registered futures associations consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses; and

(3) propose guidelines or rules to make Commission penalty levels consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses.

**SEC. 226. PUBLICATION OF COMMISSION OPINIONS.**

Section 2(a)(9) (7 U.S.C. 4a(h)) is amended by adding at the end the following new subparagraph:

"(C) Whenever the Commission issues for official publication any opinion, release, rule, order, interpretation, or other determination on a matter, the Commission shall provide that any dissenting, concurring, or separate opinion by any Commissioner on the matter be published in full along with the Commission opinion, release, rule, order, interpretation, or determination.".

**SEC. 227. SUSPENSION OF REGISTRANTS CHARGED WITH FELONIES.**

Section 8a (7 U.S.C. 12a) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11)(A) by written notice served on the person and pursuant to such rules, regulations, and orders as the Commission may adopt, to suspend or modify the registration of any person registered under this Act who is charged (in any information, indictment, or complaint authorized by a United States attorney or an appropriate official of any State) with the commission of or participation in a crime involving a violation of this Act, or a violation of any other provision of Federal or state law that would reflect on the honesty or the fitness of the person to act as a fiduciary (including an offense specified in subparagraph (D) or (E) of paragraph (2)) that is punishable by imprisonment for a term exceeding 1 year, if the Commission determines that continued registration of the person may pose a threat to the public interest or may threaten to impair public confidence in any market regulated by the Commission.

"(B) Prior to the suspension or modification of the registration of a person under this paragraph, the person shall be afforded an opportunity for a hearing at which the Commission shall have the burden of showing that the continued registration of the person does, or is likely to, pose a threat to the public interest or threaten to impair public confidence in any market regulated by the Commission.

"(C) Any notice of suspension or modification issued under this paragraph shall remain in effect until such information, indictment, or complaint is disposed of or until terminated by the Commission.

"(D) On disposition of such information, indictment, or complaint, the Commission may issue and serve on such person an order pursuant to paragraph (2) or (4) to suspend, restrict, or revoke the registration of such person.

"(E) A finding of not guilty or other disposition of the charge shall not preclude the Commission from thereafter instituting any other proceedings under this Act.

"(F) A person aggrieved by an order issued under this paragraph may obtain review of such order in the same manner and on the same terms and conditions as are provided in section 6(b).".

**SEC. 228. APPEALS BY REGISTERED FUTURES ASSOCIATIONS.**

Section 17(i)(4) (7 U.S.C. 21(i)(4)) is amended by striking "(other than a registered futures association)".

**SEC. 229. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.**

Section 4f (7 U.S.C. 6f) (as amended by section 207(b)(1) of this Act) is further amended—

"(1) by redesignating paragraphs (1) and (2) as subsections (a) an (b), respectively;

"(2) in subsection (b) (as so redesignated), by striking "this paragraph (2)" and inserting "this subsection"; and

"(3) by adding at the end the following new subsection:

"(c)(1) As used in this subsection:

"(i) The term 'affiliated person' means any person directly or indirectly controlling, controlled by, or under common control with a futures commission merchant, as the Commission, by rule or regulation, may determine will effectuate the purposes of this subsection.

"(ii) The term 'Federal banking agency' shall have the same meaning as the term 'appropriate Federal banking agency' in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(2)(A) Each registered futures commission merchant shall obtain such information and make and keep such records as the Commission, by rule or regulation, prescribes concerning the registered futures commission merchant's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its affiliated persons, other than a natural person.

"(B) The records required under subparagraph (A) shall describe, in the aggregate, each of the futures and other financial activities conducted by, and the customary sources of capital and funding of, those of its affiliated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of the futures commission merchant, including its adjusted net capital, its liquidity, or its ability to conduct or finance its operations.

"(C) The Commission, by rule or regulation, may require summary reports of such information to be filed by the futures commission merchant with the Commission no more frequently than quarterly.

"(3)(A) If, as a result of adverse market conditions or based on reports provided to the Commission pursuant to paragraph (2) or other available information, the Commission reasonably concludes that the Commission has concerns regarding the financial or operational condition of any registered futures commission merchant, the Commission may require the futures commission merchant to make reports concerning the futures and other financial activities of any of such person's affiliated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the futures commission merchant.

"(B) The Commission, in requiring reports pursuant to this paragraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission or to a contract market or other self-regulatory organization with primary responsibility for examining the registered futures commission merchant's financial and operational condition.

"(4)(A) In developing and implementing reporting requirements pursuant to paragraph (2) with respect to affiliated persons subject to examination by or reporting requirements of a Federal banking agency, the Commission shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Commission under this subsection that has been published for comment, the Commission shall respond in writing to the written comment before adopting the proposed rule. The Commission shall, at the request of the Federal banking agency, publish the comment and response in the Federal Register at the time of publishing the adopted rule.

"(B)(i) Except as provided in clause (ii), a registered futures commission merchant shall be considered to have complied with a recordkeeping or reporting requirement adopted pursuant to paragraph (2) concerning an affiliated person that is subject to examination by, or reporting requirements of, a Federal banking agency if the futures commission merchant utilizes for the recordkeeping or reporting requirement copies of reports filed by the affiliated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes (12 U.S.C. 161), section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.), section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)), section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467(a)(b)), or section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844).

"(ii) The Commission may, by rule adopted pursuant to paragraph (2), require any futures commission merchant filing the reports with the Commission to obtain, maintain, or report supplemental information if the Commission makes an explicit finding that the supplemental information is necessary to inform the Commission regarding potential risks to the futures commission merchant. Prior to requiring any such supplemental information, the Commission shall first request the Federal banking agency to expand its reporting requirements to include the information.

"(5) Prior to making a request pursuant to paragraph (3) for information with respect to an affiliated person that is subject to examination by or reporting requirements of a Federal banking agency, the Commission shall—

"(A) notify the agency of the information required with respect to the affiliated person; and

"(B) consult with the agency to determine whether the information required is available from the agency and for other purposes, unless the Commission determines that any delay resulting from the consultation would be inconsistent with ensuring the financial and operational condition of the futures commission merchant or the stability or integrity of the futures markets.

"(6) Nothing in this subsection shall be construed to permit the Commission to require any futures commission merchant to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained in the report.

"(7) No information provided to or obtained by the Commission from any Federal banking agency pursuant to a request under paragraph (5) regarding any affiliated person that is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than as provided in section 8 or section 8a(6)), without the prior written approval of the Federal banking agency.

"(8) The Commission shall notify a Federal banking agency of any concerns of the Commission regarding significant financial or operational risks resulting from the activities of any futures commission merchant to any affiliated person thereof that is subject to examination by or reporting requirements of the Federal banking agency.

"(9) The Commission, by rule, regulation, or order, may exempt any person or class of persons under such terms and conditions and for such periods as the Commission shall provide in the rule, regulation, or order, from this subsection and the rules and regulations issued under this subsection. In granting the exemption, the Commission shall consider, among other factors—

"(A) whether information of the type required under this subsection is available from a supervisory agency (as defined in section 1101(7) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(7))), a State insurance commission or similar State agency, the Securities and Exchange Commission, or a similar foreign regulator;

"(B) the primary business of any affiliated person;

"(C) the nature and extent of domestic or foreign regulation of the affiliated person's activities;

"(D) the nature and extent of the registered futures commission merchant's commodity futures and options activities; and

"(E) with respect to the registered futures commission merchant and its affiliated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in the United States futures markets.

"(10) Information required to be provided pursuant to this subsection shall be subject to section 8. Except as specifically provided in section 8 and notwithstanding another provision of law, the Commission shall not be compelled to disclose any information required to be reported under this subsection, or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any affiliated person of a registered futures commission merchant.

"(11) Nothing in paragraphs (1) through (10) shall be construed to supersede or to limit in any way the authority of powers of the Commission pursuant to any other provision of this Act or regulations issued under this Act.".

## TITLE III—ASSISTANCE TO FOREIGN FUTURES AUTHORITIES

**SEC. 301. SUBPOENA AUTHORITY.**

The third sentence of section 6(c) (7U.S.C. 15) (as redesignated by section 209(a)(1)) is amended—

(1) by striking "Act and" and inserting "Act,"; and

(2) by striking "Act, any" and inserting "Act, and for the purpose of any action taken under section 12(f), any".

**SEC. 302. COOPERATION WITH FOREIGN FUTURES AUTHORITIES.**

Section 12(a) (7 U.S.C. 16(a)) is amended by inserting after "thereof," the following: "any foreign futures authority, any department or agency of a foreign government or political subdivision thereof,".

**SEC. 303. INVESTIGATIVE ASSISTANCE TO FOREIGN FUTURES AUTHORITIES.**

Section 12 (7 U.S.C. 16) is amended by adding at the end the following:

"(f)(1) On request from a foreign futures authority, the Commission may, in its discretion, provide assistance in accordance with this section if the requesting authority states that the requesting authority is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws, rules or regulations relating to futures or options matters that the

requesting authority administers or enforces. The Commission may conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States.

"(2) In deciding whether to provide assistance under this subsection, the Commission shall consider whether—

"(A) the requesting authority has agreed to provide reciprocal assistance to the Commission in futures and options matters; and

"(B) compliance with the request would prejudice the public interest of the United States.

"(3) Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign futures authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation, or in providing any other assistance to a foreign futures authority, pursuant to this section. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.".

**SEC. 304. DISCLOSURE OF INFORMATION RECEIVED FROM FOREIGN FUTURES AUTHORITIES.**

Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended—

(1) by adding at the end of subsection (a)(1) (as so redesignated by section 205(1)), the following:

"The Commission shall not be compelled to disclose any information or data obtained from a foreign futures authority if—

"(A) the foreign futures authority has in good faith determined and represented to the Commission that disclosure of such information or data by that foreign futures authority would violate the laws applicable to that foreign futures authority; and

"(B) the Commission obtains such information pursuant to—

"(i) such procedure as the Commission may authorize for use in connection with the administration or enforcement of this Act; or

"(ii) a memorandum of understanding with that foreign futures authority;

except that nothing in this subsection shall prevent the Commission from disclosing publicly any information or data obtained by the Commission from a foreign futures authority when such disclosure is made in connection with a congressional proceeding, an administrative or judicial proceeding involving a receiver appointed in a judicial proceeding commenced by the United States or the Commission, in any receivership proceeding commenced by the United States or the Commission, or in any proceeding under title 11 of the United States Code in which the Commission has intervened or in which the Commission has the right to appear and be heard. Nothing in this subsection shall be construed to authorize the Commission to withhold information or data from Congress. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of section 552."; and

(2) by adding at the end of subsection (b) the following:

"This subsection shall not apply to the disclosure of data or information obtained by the Commission from a foreign futures authority.".

**SEC. 305. DISCLOSURE OF INFORMATION TO FOREIGN FUTURES AUTHORITIES.**

Section 8(e) (7 U.S.C. 12(e)) is amended—

(1) in the fifth sentence—

(A) by inserting after "jurisdiction," the first place it appears the following: "any foreign futures authority,"; and

(B) by inserting after "such" the following: "foreign futures authority,"; and

(2) in the last sentence—

(A) by inserting after "information to a" the following: "foreign futures authority or to a";

(B) by inserting after "disclosed by such" the following: "foreign futures authority,"; and

(C) by inserting after "or agency thereof" the following: ", or foreign futures authority,".

## TITLE VI—AUTHORIZATION OF APPROPRIATIONS; TECHNICAL AMENDMENTS; EFFECTIVE DATE

**SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

Section 12(d) (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out this Act—

"(1) $53,000,000 for fiscal year 1993; and

"(2) $60,000,000 for fiscal year 1994.".

**SEC. 402. TECHNICAL AMENDMENTS.**

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended—

(1) by striking "commission" in—

(A) section 4a (as amended by paragraph (2)) each place it appears, other than in subsection (d), as so redesignated;

(B) section 6(b), as so redesignated by section 209(a)(1), each place it appears;

(C) section 6(c), as so redesignated by section 209(a)(1);

(D) section 13(c);

and inserting "Commission";

(2) in section 4a (7 U.S.C. 6a)—

(A) in subsection (1) by striking "subparagraphs 2 (A) and (B)" and inserting "paragraphs (1) and (2) of subsection (b)";

(B) in subsection (3) by striking "subsection (1)" and inserting "subsection (a)";

(C) by redesignating subsections (1) through (5) as subsections (a) through (e), respectively; and

(D) in subsection (b), as so redesignated, by redesignating paragraphs (A) and (B) as paragraphs (1) and (2), respectively.

(3) in section 4b—

(A) by redesignating subdivisions (A) through (D) as subdivisions (i) through (iv), respectively;

(B) by striking "(a)", and "(c)", and inserting "(A)", "(B)", and "(C)", respectively;

(C) by inserting "(a)" after "Sec. 4b.";

(D) by inserting "(b)" before "Nothing in this section or"; and

(E) by inserting "(c)" before "Nothing in this section shall";

(4) in section 4c(d)(2)—

(A) in subparagraph (A)(iv) by striking "(15 U.S.C. 78c(a)(12))" and inserting "(15 U.S.C. 78c(a)(12))"; and

(B) in the matter following subparagraph (C) by striking "section (2)(a)" and inserting "section 2(a)";

(5) in section 4g (7 U.S.C. 6g)—

(A) by redesignating subsections (1) through (6) as subsections (a) through (f), respectively; and

(B) in subsection (c), as so redesignated, by striking "subsection (2)" and inserting "subsection (b)";

(6) in section 6(c), as so redesignated by section 209(a)(1), by striking "offending person." and inserting "offending person";

(7) in section 6(c), as so redesignated by section 209(a)(1), and in section 8(f) by striking "subpena" and "subpenas" each place they appear and inserting "subpoena" and "subpoenas", respectively;

(8) in section 6a, as amended by section 209(b)(4), by redesignating subsections (1) and (2) as subsections (a) and (b), respectively;

(9) by striking "the Secretary of Agriculture or"—

(A) in the first sentence of section 6(b), as so redesignated by section 209(a)(1);

(B) in the first sentence of section 6(c), as so redesignated by section 207(a)(1); and

(C) in section 13(c);

(10) in section 8a—

(A) in paragraph (5) by striking "and" at the end; and

(B) in paragraph (7) by striking "matters as:" and inserting "matters as—";

(11) in section 14(g) by striking "fifteen months" the second place it appears and inserting '15-months";

(12) in section 17—

(A) in subsection (a) by indenting the left margin of paragraphs (1) and (2) by 2 ems; and

(B) in subsection (1)(2)(B)—

(i) by striking "the Commodity Exchange" and inserting "this"; and

(ii) by striking the period at the end and inserting "; and";

(13) by striking section 21;

(14) in section 22(a)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A) by striking "clauses (A) through (D)" and inserting "subparagraphs (A) through (D)"; and

(ii) in subparagraph (D) by striking "clause (B)" and inserting "subparagraph (B)"; and

(B) in paragraph (2) by striking "17b(10)" and inserting "17(b)(10)"; and

(15) by striking section 23.

**SEC. 403. EFFECTIVE DATE.**

Except as otherwise specifically provided in this Act, this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

**SEC. 404. DEFINITIONS.**

(a) In General.—The Act is amended by inserting after the first section (7 U.S.C. 1) the following new section:

**"SEC. 1a. DEFINITIONS.**

"As used in this Act:

"(1) BOARD OF TRADE.—The term 'board of trade' means any exchange or association, whether incorporated or unincorporated, of persons who are engaged in the business of buying or selling any commodity or receiving the same for sale on consignment.

"(2) COMMISSION.—The term 'Commission' means the Commodity Futures Trading Commission established under section 2(a)(2).

"(3) COMMODITY.—The term 'commodity' means wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils) cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles, except onions as provided in Public Law 85-839 (7 U.S.C. 13-1), and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.

"(4) COMMODITY POOL OPERATOR.—The term 'commodity pool operator' means any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, except that the term does not include such persons not within the intent of the definition of the term as the Commission may specify by rule, regulation, or order.

"(5) COMMODITY TRADING ADVISOR.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'commodity trading advisor' means any person who—

"(i) for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic

media, as to the value of or the advisability of trading in—

"(I) any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market;

"(II) any commodity option authorized under section 4c; or

"(III) any leverage transaction authorized under section 19; or

"(ii) for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the activities referred to in clause (i).

"(B) EXCLUSIONS.—Subject to subparagraph (C), the term 'commodity trading advisor' does not include—

"(i) any bank or trust company or any person acting as an employee thereof;

"(ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant, or teacher;

"(iii) any floor broker or futures commission merchant;

"(iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees;

"(v) the fiduciary of any defined benefit plan that is subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.);

"(vi) any contract market; and

"(vii) such other persons not within the intent of this paragraph as the Commission may specify by rule, regulation, or order.

"(C) INCIDENTAL SERVICES.—Subparagraph (B) shall apply only if the furnishing of such services by persons referred to in subparagraph (B) is solely incidental to the conduct of their business or profession.

"(D) Advisors.—The Commission, by rule or regulation, may include within the term 'commodity trading advisor', any person advising as to the value of commodities or issuing reports or analyses concerning commodities if the Commission determines that the rule or regulation will effectuate the purposes of this paragraph.

"(6) CONTRACT OF SALE.—The term 'contract of sale' includes sales, agreements of sale, and agreements to sell.

"(7) COOPERATIVE ASSOCIATION OF PRODUCERS.—The term 'cooperative association of producers' means any cooperative association, corporate, or otherwise, not less than 75 percent in good faith owned or controlled, directly or indirectly, by producers of agricultural products and otherwise complying with the Act of February 18, 1922 (42 Stat. 388, chapter 57; 7 U.S.C. 291 and 292), including any organization acting for a group of such associations and owned or controlled by such associations, except that business done for or with the United States, or any agency thereof, shall not be considered either member or nonmember business in determining the compliance of any such association with this Act.

"(8) FLOOR BROKER.—The term 'floor broker' means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market.

"(9) FLOOR TRADER.—The Term 'floor trader' means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, purchases, or sells solely for such person's own account, any commodity for future delivery on or subject to the rules of any contract market.

"(10) FOREIGN FUTURES AUTHORITY.—The term 'foreign futures authority' means any foreign government, or any department, agency, governmental body, or regulatory organization empowered by a foreign government to administer or enforce a law, rule, or regulation as it relates to a futures or options matter, or any department or agency of a political subdivision of a foreign government empowered to administer or enforce a law, rule, or regulation as it relates to a futures or options matter.

"(11) FUTURE DELIVERY.—The term 'future delivery' does not include any sale of any cash commodity for deferred shipment or delivery.

"(12) FUTURES COMMISSION MERCHANT.—The term 'futures commission merchant' means an individual, association, partnership, corporation, or trust that—

"(A) is engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market; and

"(B) in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

"(13) INTERSTATE COMMERCE.—The term 'interstate commerce' means commerce—

"(A) between any state, territory, or possession, or the District of Columbia, and any place outside thereof; or

"(B) between points within the same state, territory, or possession, or the District of Columbia, but through any place outside thereof, or within any territory or possession, or the District of Columbia.

"(14) INTRODUCING BROKER.—The term 'introducing broker' means any person (except an individual who elects to be and is registered as an associated person of a futures commission merchant) engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

"(15) MEMBER OF A CONTRACT MARKET.—The term 'member of a contract market' means an individual, association, partnership, corporation, or trust owning or holding membership in, or admitted to membership representation on, contract market or given members' trading privileges thereon.

"(16) PERSON.—The term 'person' imports the plural or singular, and includes individuals, associations, partnerships, corporations, and trusts."

(b) CONFORMING AMENDMENTS.—SECTION 2(a)(1)(A) (7 U.S.C. 2 AND 4) IS AMENDED—

(1) by striking "For the purposes" and all that follows through: "Provided, That the Commission" and inserting "(i) The Commission";

(2) by striking: "And provided further, That, except" and inserting a period and "Except";

(3) by redesignating clauses (i) and (ii) of the third sentence (as in effect before the amendments made by this subsection) as subclauses (I) and (II), respectively;

(4) by designating the fifth sentence (as in effect before the amendments made by this subsection) as clause (ii);

(5) by striking the sixth and seventh sentences (as in effect before the amendments made by this subsection);

(6) by designating the eighth sentence (as in effect before the amendments made by this subsection) as clause (iii); and

(7) by striking the ninth sentence (as in effect before the amendments made by this subsection) through the end of the subparagraph.

## TITLE V—INTERMARKET COORDINATION

### SEC. 501. MARGIN ON STOCK INDEX FUTURES.

Section 2(a)(1)(B) (7 U.S.C. 2a) is amended by adding at the end the following new clause:

"(vi)(I) Notwithstanding any other provision of this Act, any contract market in a stock index futures contract (or option thereon) shall file with the Board of Governors of the Federal Reserve System any rule establishing or changing the levels of margin (initial and maintenance) for the Stock index futures contract (or option thereon).

"(II) The Board may at any time request any contract market to set the margin for any stock index futures contract (or option thereon) at such levels as the Board in its judgment determines are appropriate to preserve the financial integrity of the contract market or its clearing system or to prevent systemic risk. If the contract market fails to do so within the time specified by the Board in its request, the Board may direct the contract market to alter or supplement the rules of the contract market as specified in the request.

"(III) Subject to such conditions as the Board may determine, the Board may delegate any or all of its authority under this clause only to the Commission.

"(IV) Nothing in this clause shall supersede or limit the authority granted to the Commission in section 8a(9) to direct a contract market, on finding an emergency to exist, to raise temporary emergency margin levels on any futures contract or option on the contract covered by this clause.

"(V) Any action taken by the Board, or by the Commission acting under the delegation of authority under subclause III, under this clause directing a contract market to alter or supplement a contract market rule shall be subject to review only in the Court of Appeals where the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. The review shall be based on the examination of all information before the Board or the Commission, as the case may be, at the time the determination was made. The court reviewing the action of the Board or the Commission shall not enter a stay or order of mandamus unless the court has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

### SEC. 502. EXEMPTIVE AUTHORITY.

(a) IN GENERAL.—Section 4 (7 U.S.C. 6) is amended—

(1) in subsection (a), by striking "It shall be unlawful" and inserting "Unless exempted by the Commission pursuant to subsection (c), it shall be unlawful"; and

(2) by adding at the end the following new subsections:

"(c)(1) In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, after notice and opportunity for hearing, may (on its own initiative or on application of any person, including any board of trade designated as a contract market for transactions for future delivery in any commodity under section 5 of this Act) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods and either retroactively or prospectively, or both, from any of the requirements of subsection (a), or from any other provision of this Act (except section 2(a)(1)(B)), if the Commission determines that the exemption would be consistent with the public interest."

"(2) The Commission shall not grant any exemption under paragraph (1) from any of the re-

*quirements of subsection (a) unless the Commission determines that—*

*"(A) The requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this Act; and*

*"(B) the agreement, contract, or transaction—*

*"(i) will be entered into solely between appropriate persons; and*

*"(ii) will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act.*

*"(3) For purposes of this subsection, the term 'appropriate person' shall be limited to the following persons or classes thereof:*

*"(A) A bank or trust company (acting in an individual or fiduciary capacity).*

*"(B) A savings association.*

*"(C) An insurance company.*

*"(D) An investment company subject to regulation under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.).*

*"(E) A commodity pool formed or operated by a person subject to regulation under this Act.*

*"(F) A corporation, partnership, proprietorship, organization, trust, or other business entity with a net worth exceeding $1,000,000 or total assets exceeding $5,000,000, or the obligations of which under the agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by any such entity or by an entity referred to in subparagraph (A), (B), (C), (H), (I), or (K) of this paragraph.*

*"(G) An employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, investment adviser registered under the Investment Advisers Act of 1940 (15 U.S.C. 80a–1 et seq.), or a commodity trading advisor subject to regulation under this Act.*

*"(H) Any governmental entity (including the United States, any state, or any foreign government) or political subdivision thereof, or any multinational or supranational entity or any instrumentality, agency, or department of any of the foregoing.*

*"(I) A broker-dealer subject to regulation under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) acting on its own behalf or on behalf of another appropriate person.*

*"(J) A futures commission merchant, floor broker, or floor trader subject to regulation under this Act acting on its own behalf or on behalf of another appropriate person.*

*"(K) Such other persons that the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections.*

*"(4) During the pendency of an application for an order granting an exemption under paragraph (1), the Commission may limit the public availability of any information received from the applicant if the applicant submits a written request to limit disclosure contemporaneous with the application, and the Commission determines that—*

*"(A) the information sought to be restricted constitutes a trade secret; or*

*"(B) public disclosure of the information would result in material competitive harm to the applicant.*

*"(5) The Commission may—*

*"(A) promptly following the enactment of this subsection, or upon application by any person, exercise the exemptive authority granted under paragraph (1) with respect to classes of hybrid instruments that are predominantly securities or depository instruments, to the extent that such instruments may be regarded as subject to the provisions of this Act; or*

*"(B) promptly following the enactment of this subsection, or upon application by any person, exercise the exemptive authority granted under paragraph (1) effective as of October 23, 1974, with respect to classes of swap agreements (as defined in section 101 of title 11, United States Code) that are not part of a fungible class of agreements that are standardized as to their material economic terms, to the extent that such agreements may be regarded as subject to the provisions of this Act.*

*Any exemption pursuant to this paragraph shall be subject to such terms and conditions as the Commission shall determine to be appropriate pursuant to paragraph (1).*

*"(d) The granting of an exemption under this section shall not affect the authority of the Commission under any other provision of this Act to conduct investigations in order to determine compliance with the requirements or conditions of such exemption or to take enforcement action for any violation of any provision of this Act or any rule, regulation or order thereunder caused by the failure to comply with or satisfy such conditions or requirements.".*

*(b) COMPETITIVE FAIRNESS.—Section 15 (7 U.S.C. 19) is amended by striking "regulations," and inserting "regulation (including any exemption under section 4(c) or 4c(b)),".*

*(c) CONFORMING AMENDMENT.—Section 12(e)(2)(A) (7 U.S.C. 16(e)(2)(A)) is amended by inserting after "market," the following: "or, in the case of any State or local law that prohibits or regulates gaming or the operation of 'bucket shops' (other than antifraud provisions of general applicability), that is not a transaction or class of transactions that has received or is covered by the terms of any exemption previously granted by the Commission under subsection (c) of section 4 of this Act,".*

From the Committee on Agriculture, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
GLENN ENGLISH,
HARLEY O. STAGGERS, Jr.,
RICHARD H. STALLINGS,
DAVE NAGLE,
BILL SARPALIUS,
TIM JOHNSON,
JERRY HUCKABY,
DAN GLICKMAN,
TIMOTHY J. PENNY,
MIKE ESPY,
JILL L. LONG,
CHARLES W. STENHOLM,
ROBIN TALLON,
TOM COLEMAN,
BOB SMITH,
STEVE GUNDERSON,
LARRY COMBEST,
WAYNE ALLARD,
BILL BARRETT,
JIM NUSSLE,
JOHN A. BOEHNER,
PAT ROBERTS,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 263 and title III of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEPHEN L. NEAL,
CARROLL HUBBARD, Jr.,
JOHN J. LAFALCE,
MARY ROSE OAKAR,
CHALMERS P. WYLIE,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,

As additional conferees from the Committee on Energy and Commerce, for consideration of section 263 and title III of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
JAMES H. SCHEUER,
MIKE SYNAR,
DENNIS E. ECKART,
JIM SLATTERY,
NORMAN F. LENT,
MATTHEW J. RINALDO,
CARLOS J. MOORHEAD,
DON RITTER,
*Managers on the Part of the House.*

PATRICK LEAHY,
DAVID L. BOREN,
HOWELL HEFLIN,
KENT CONRAD,
RICHARD G. LUGAR,
ROBERT DOLE,
THAD COCHRAN,
*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. 707) to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices which may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; 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.

[NOTES.—(1) The parentheticals following each item number designate the location of the provision in the House bill (H), Senate amendment (S), or Conference reported bill (C), as appropriate.

(2) Any references to "the Act" in this statement of managers is a referee to the Commodity Exchange Act, unless otherwise specifically provided.]

*1. Short title and table of contents (H 1; S 1; C 1)*

The House bill provides that this Act may be cited as the "Commodity Futures Improvements Act of 1992".

The Senate amendment provides that this Act may be cited as the "Futures Trading Practices Act of 1991".

The Conference substitute adopts the Senate provision with an amendment changing the date to 1992.

*2. Dual trading—Restriction (H 101; S 202; C 101)*

The House bill requires the Commodity Futures Trading Commission (Commission) to issue regulations prohibiting dual trading by floor brokers in any contract market with an average daily trading volume greater than the threshold trading level—subject to certain exceptions—and requires a broker to stipulate at the beginning of each trading session whether he or she is trading for the broker's own or for customers' accounts. The regulations must provide for transition measures, as determined necessary by the Commission in the public interest, for a contract market when volume increases to or above, or decreases below, the threshold trading level. Notwithstanding other provisions, the House bill requires the Commission to make a determination, as it deems necessary, whether or not dual trading should be allowed in contract markets where it is not prohibited. The House bill also preserves the ability of each contract market to set terms and conditions more restrictive than those set by the Commission. Under the House bill regulations implementing the dual trading ban must be issued within 270 days from the date of enactment. Regulations on exemptions must be issued within 240 days.

The Senate amendment adds a new section 8e(c) to the Commodity Exchange Act (Act) to provide that, within 18 months of enactment, the Commission is to suspend the privilege of dual trading on any contract market which fails to meet relevant standards. The Senate amendment provides that any dual trading suspension is to remain in effect until the Commission finds that conditions that would otherwise have allowed dual trading to continue are met. The Senate amendment also requires the Commission to report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry whenever a deficiency order is issued or suspension of dual trading at a contract market is ordered and requires the Commission to make annual reports regarding steps undertaken to carry out the section.

The Conference substitute adopts the House provision with an amendment to apply regulations prohibiting dual trading to any contract market unless an exemption is explicitly granted (except that the dual trading ban shall not apply to any contract market with an average daily trading volume below the threshold trading level). The threshold trading level is to be set initially at 8,000 contracts per day. The Commission may approve increases in the threshold level for specific contract markets during the first 3 years after enactment. Beginning 3 years after the date of enactment, the Commission may approve increases or decreases in the threshold trading level. The Conference substitute requires that the Commission provide adequate notice of any change in the threshold that will have an impact on trading at a contract market. This notice should be adequate, at a minimum, to allow the affected contract market to take the appropriate response to the increase or decrease, including, where applicable, (1) to adjust its trading, audit trail, and other practices to accommodate the new threshold; (2) to challenge the new threshold; (3) to apply for an exemption under new section 4j(a)(3) of the Act; or (4) to take such other actions necessary to implement the new threshold. The Conference substitute provides that the regulations implementing the prohibition of dual trading may take effect not less than 30 days after their issuance, and must include specified transition measures and a phase-in period. The regulations must also include measures designed to accommodate unique or special characteristics of individual markets. Once in effect, the regulations shall apply to any contract market for which an explicit exemption has not been granted.

The Conferees note that the amendments to section 4j of the Commodity Exchange Act included in the Conference substitute, as well as both the House bill and the Senate amendment, are not intended to override or call into question the broad authority currently granted to the Commission under section 4j(1) to determine whether or not to permit dual trading by floor brokers and, if so, under what conditions. However, the Conferees intend that new section 4j(a) will provide the primary means by which the Commission will address violations attributable to dual trading.

*3. Dual trading—Definition (H 101; S 202; C 101)*

The House bill requires that the Commission promulgate a definition of the term "dual trading."

The Senate amendment defines "dual trading" as the "execution of customer orders by a floor broker on any trading day during which the floor broker has executed any trade in the same contract market for—(1) the account of the follow broker; (2) an account for which the broker has trading discretion; or (3) an account controlled by a person with whom such broker is subject to trading restrictions under section 4j(3)."

The Conference substitute adopts the Senate provision with a technical amendment.

*4. Dual trading—Exception (H 101; S 202; C 101)*

The House bill makes an exception from the dual trading restriction for contract markets with trading of less than 7,000 contracts per day (based on a 6-month moving average) and gives the Commission discretion to alter the threshold for specific contract markets giving consideration to the effects of the ban on liquidity, price volatility, bid-ask spreads, and the public interest. The House bill requires notification of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry whenever a change in the threshold is made. The House bill also provides for exceptions from the dual trading ban for spread trades and trades to correct errors, and in cases where customers specifically authorize an individual broker to dual trade on their behalf. The House bill further requires the Commission to exempt from the dual trading ban any contract market which shows that it has an audit trail system that will detect violations associated with dual trading and is fully verifiable, if the Commission determines that such an exception is in the public interest. The House bill requires the Commission to act on a contract market's exemption request within 60 days of receipt.

The Senate amendment requires that dual trading be suspended under a deficiency order unless it is found that: (a) the contract market is in compliance with the self-regulatory (audit trail and other) standards required by the bill or (b) that there is a substantial likelihood that a dual trading suspension would harm the public interest in hedging and price basing at such contract market and that other remedies are not appropriate. The Senate amendment also authorizes the Commission to make exceptions to ensure fairness and orderly trading in a contract market.

The Conference substitute adopts the House provision with amendments relating to exemptions from the ban on dual trading. It requires the Commission to grant an exemption from the ban for a contract market: (1) that meets the Conference substitute's trade monitoring system requirements; or (2) with regard to which the Commission finds that banning dual trading would be harmful to the public interest, and for which the Commission finds that other corrective actions are sufficient to bring the contract market into compliance with the trade monitoring system requirements. As noted above, under the Conference substitute the ban on dual trading would not apply with respect to any contract market with average daily trading volume below the threshold trading level. Under the Conference substitute, the audit trail standards and dual trading provisions are linked both in terms of substance and timing. The Conferees believe that audit trail systems should evolve and improve over time. The Conferees therefore are not requiring contract markets initially to implement an independent, precise and complete audit trail in order to be allowed to continue dual trading on a specific contract market. Instead, the Conferees expect that existing audit trail systems that qualify under section 5a(b)(2) of the Act, if implemented effectively and diligently, would meet the initial audit trail requirements for a dual trading exemption insofar as those systems are capable of detecting, and are being used in any disciplinary actions for prosecuting, violations attributable to dual trading. When the second phase of the audit trail standard (the independent, precise and complete test) takes effect in three years, the heightened audit trail standard would be applied, for the first time, in the context of the dual trading exemption standard.

The Conference substitute establishes procedures under which a contract market may apply for an exemption from the prohibition on dual trading and authorizes the Commission to approve or deny an application for exemption or to approve the application subject to conditions. It requires the Commission to give notice and opportunity for a hearing to any board of trade if an application for an exemption is to be denied or conditionally approved and specifies findings the Commission must make in considering an application for an exemption. The Conference substitute also provides procedures for judicial review of any final Commission action with respect to an exemption application. Exemption may be revoked by the Commission upon a finding, after providing notice and opportunity for a hearing to the affected board of trade, that a condition of the exemption is not being met. An application for an exemption must be acted on within 75 days of its receipt or as soon as is practicable. To make efficient use of resources, the Commission may develop a timetable to coordinate its review of applications for exemptions under this paragraph with the completion of any Commission review of the affected board of trade's trade monitoring system. In any event, the Conferees intend that action on these applications be expeditious—within 75 days where practicable—particularly where a dual trading ban has been imposed and a board of trade is attempting to demonstrate that it has satisfied the requirements to have the prohibition lifted. The prohibition would not initially take effect with regard to a particular contract market which has applied for an exemption until the Commission either approves conditionally or denies the application. The Conference substitute requires the Commission to publish

in the Federal Register notice of exemptive petitions and any proposed and final actions on such petitions. "Proposed actions" in this context are intended to include actions of significance that would normally be published in the Federal Register or otherwise subject to review or comment by the general public or the petitioner. The Conference substitute requires a 20 day delay on the effective date of a Commission order denying an application or granting a conditional exemption unless more expeditious action is necessary.

*5. and 6. Broker Associations (H 102; S 211; C 102)*

The House bill prohibits a member of a broker association from executing a customer trade where the opposite position is taken by another member of the association. The House bill also prohibits a member of a broker association from executing trades with another member of the association in any case where such transactions constitute more than 25 percent of the broker's transactions in any month and authorizes the Commission to prohibit other broker association practices were appropriate. The Commission's regulations must include a definition of the term "broker association." The House bill preserves the authority of the Commission and contract markets to implement regulations on broker associations which are more restrictive than those in the bill. Under the House bill, regulations required to implement the provision must be issued within 270 days from the date of enactment. The House bill also requires a Commission report to Congress. Under the House bill, Commission regulations may provide for exceptions to broker association trading restrictions in cases of trades executed through trading systems where the identity of the opposite broker is unknown.

The Senate amendment prohibits a floor broker from executing customer order transactions with an affiliated broker or a broker with whom he or she has an employment relationship, partnership, or affiliation, if the broker knows of the association at the time of the trade. The provision of the Senate amendment is to take effect 270 days after enactment. Under the Senate amendment, broker association trading restrictions are not to apply if the Commission adopts rules which it certifies are designed to deter abuses. Neither would the restriction apply in the case of a contract market that has adopted restrictive rules, unless the Commission determines that the rules are not adequate.

The Conference substitute adopts the Senate provision. The Conferees anticipate that, in adopting rules under this provision, the Commission should take into account the availability of existing data collection systems which can be used effectively for compliance purposes under this section in order to avoid duplicative registration requirements.

*7. Broker Associations—Disclosure (S 212; C 103)*

The House bill contains no similar provision.

The Senate amendment requires each contract market to provide for disclosure to the exchange and to the Commission of any business or financial arrangement between floor brokers and traders where the arrangement is material and known to the floor brokers or traders.

The Conference substitute adopts the Senate provision.

*8. Audit trail—Standard (H 201; S 201 & S 202; C 201 & C 202)*

The House bill requires each contract market to maintain a single record for each trade showing time of execution, quantity, and other information required by the Commission. Each record must enable the contract market to rapidly construct an accurate description of each transaction executed on the contract market. Under the House bill, the time of execution of each trade is to be stated in increments of not more than

(1) 1 minute in length by no later than 1 year from date of enactment; and

(2) 30 seconds in length within 3 years after enactment.

The House bill also provides that a board of trade shall not be designated as a contract market for a new contract unless all of its existing contract markets are in compliance with the audit trail requirements.

The Senate amendment imposes standards for implementation of audit trails recording times of trades in increments of not more than 1 minute in length and also requires that, within 3 years of the date of enactment, each contract market have an audit trail system that records trading data in a form which—

(1) cannot be altered;

(2) provides data to the market on a continuous basis;

(3) to the extent practicable, identifies among other things the time of a given trade independently of the trader and establishes the time at which customer trading orders are delivered to an exchange floor for execution.

The Senate amendment authorizes the Commission to establish standards under which the required audit trail records must show the sequence of all trades made by all traders and brokers at a given exchange and the interval between the time of receipt and time of execution of each order by the floor broker. The Senate amendment requires the Commission to biennially assess compliance with audit trail and other contract market duties and requires the Commission to issue a deficiency order to any market not in compliance. The Senate amendment requires remedial action including, where appropriate, suspension of dual trading in a contract market which fails to demonstrate compliance.

The Conference substitute adopts the Senate provision with amendments to: (1) grant the Commission authority to determine the extent to which a contract market need not meet the standard where the Commission determines that circumstances beyond the control of the contract market prevent compliance despite the contract market's affirmative good faith efforts to comply; and (2) provide that a board of trade shall not be designated as a contract market for a new contract unless all of its existing contracts are in compliance.

The Conferees understand that a number of exchanges plan to develop the technologies and systems needed to implement the audit trail requirements of the Conference substitute; other exchanges plan to acquire the audit trail technology from another party. The Conferees expect the Commission to apply the "affirmative good faith efforts" test in an equitable manner in both of these and in other appropriate situations which may arise where an exchange is developing the technologies and systems to implement the audit trail requirements and to situations where an exchange is acquiring the audit trail technology from another party and in other appropriate situations.

The Conferees have authorized the Commission to adopt regulations providing for sequencing of all trades and recording of the time interval between a floor broker's receipt of an order and the execution of such order. The determination of whether such regulations are necessary to effectuate the audit trail objectives set forth in the new statutory provisions is left to the Commission. The Conferees intend, however, that any regulations adopted by the Commission would be compatible with the pit trading system currently prevalent in United States futures markets, insofar as regulations would apply to such trading. If the Commission determines such regulations to be necessary, this provision confirms the Commission's authority to promulgate such regulations.

The Conferees intend that under the Conference substitute, a board of trade may satisfy the initial burden of demonstrating that each of its designated contract markets complies with trade monitoring system requirements of section 5a(b) of the Act, subject to requests for further information by the Commission, by showing that it has maintained an ongoing record of compliance with those requirements. Evidence of this record of compliance could include—

(1) a description of the trade monitoring system in place at the board of trade and the compliance history of that system;

(2) the findings regarding that trade monitoring system under the Commission's most recent rule enforcement or other similar review;

(3) the absence of any recent or pending Commission enforcement actions, deficiency order actions or other administrative actions with respect to the board of trade's designated contract markets, or, if appropriate, information addressing the status or findings of any such actions;

(4) the existence of any order issued by the Commission exempting the board of trade's designated contract markets from the dual trading prohibition under section 4j(a)(1) of the Act and the board of trade's record of compliance with any conditions attached to that order; and

(5) such other information as the Commission determines necessary.

*9. Audit Trail—Reports (H 201(a); S 202(b); C 201(b))*

The House bill requires a Commission compliance status report to be submitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry within 180 days of enactment. The House bill also requires the Commission to determine whether the audit trail standards imposed have enabled rapid reconstruction of trades in an accurate and verifiable manner and whether recording and reconstruction can be accomplished on a real time basis through the use of improved technologies or other means. The House bill also requires a report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry relating to those determinations no later than 5 years after enactment.

The Senate amendment requires that within 2 years of enactment, the Commission must submit to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry a report assessing progress in each contract market in complying with audit trail requirements. It also requires the GAO to submit views regarding the report.

The Conference substitute adopts the Senate provision.

*10. Audit Trail—Exemptions (S 201(a); C 201)*

The House bill contains no similar provision.

The Senate amendment requires that the Commission, to the extent appropriate, ex-

empt low volume exchanges from certain audit trail requirements as long as they substantially comply with the objectives of the audit trail requirements and otherwise maintain a high level of compliance with the subsection. The Senate amendment also requires the Commission, to the extent it determines appropriate, to exempt categories of customer orders transmitted to and reported from a trading area in an extremely rapid manner and that substantially comply with the trade monitoring system requirements.

The Conference substitute adopts the Senate provision with an amendment to require the Commission to grant an exemption from the trade monitoring system requirements with respect to an exchange if trading volume at each contract market on the exchange is relatively small—including if it is below the threshold trading level for each contract market at the exchange—and the Commission finds that the trade monitoring system at the exchange otherwise maintains a high level of compliance.

*11. Audit Trail—Oral orders (S 203(a); C 203)*

The House bill has no similar provision.

The Senate amendment requires the Commission to issue rules that require a contemporaneous written record be made, as practicable, of all orders placed by a member present on the floor of a contract market for execution by another member.

The Conference substitute adopts the Senate provision. The Conferees understand that if a written order is prepared as required for customers under Commission regulations, then that record would satisfy the requirements of this provision.

*12. Additional contract market duties (S 201(a); C 201)*

The House bill has no similar provision.

The Senate amendment requires that each contract market maintain and utilize a system to monitor floor trading. Each system must include: physical observation of trading areas; audit trail systems; systems to review audit trail data on a regular basis to detect violations; use of such information consistently to bring appropriate disciplinary actions; the commitment of adequate resources; and the assessment of meaningful penalties.

The Conference substitute adopts the Senate provision.

*13. Deficiency orders (S 202(a); C 202)*

The House bill has no similar provision.

The Senate amendment requires that within 18 months of enactment and at least biennially thereafter, the Commission must conduct an assessment regarding the trade monitoring system of each contract market to determine whether or not it satisfies the requirements contained in section 5a(b) of the Act (as added by section 201(a) of the Senate amendment). The Senate amendment also requires that the Commission issue a deficiency order to any contract for which it has reason to believe that the contract market's trade monitoring system does not satisfy one or more of such requirements. A deficiency order must specify the deficiencies which the Commission has reason to believe exist, the corrective action the contract market must take, a timetable for such action, and a date upon which the deficiency order will become final.

The Conference substitute adopts the Senate provision with amendments to:

(1) clarify that the bill authorizes, but does not require, the Commission to issue a deficiency order to any contract market for which the Commission has reason to believe the trade monitoring system does not meet the requirements;

(2) clarify that new section 8e(a) of the Act requires the Commission to assess the trade monitoring systems at each contract market at least once every 2 years, to the extent practicable; and

(3) authorize the Commission to use other administrative or enforcement actions to bring the contract market's trade monitoring system into compliance with the requirements of new section 5a(b).

The Conferees intend that the authority for the Commission to "take such other administrative or enforcement action as the Commission determines is appropriate" grant the Commission maximum flexibility to enforce the requirements under section 5a(b) of the Act, including the authority to provide for the satisfaction of section 5a(b) requirements through informal discussion or negotiation with the contract market, as well as through formal agency action.

*14. Deficiency orders—Penalties (S 202(a); C 202)*

The House bill has no similar provision.

The Senate amendment provides that once an order becomes final, the Commission may impose one or more of the following requirements on a contract market:

(1) that trade monitoring system improvements be made;

(2) that the contract market satisfy stated objective performance criteria to correct deficiencies;

(3) that the contract market upgrade or reconfigure systems for collecting or processing relevant data; and

(4) that dual trading be suspended on the contract market.

The Senate amendment authorizes the commission to use the deficiency order procedure to remove an officer, director, or employee of a contract market who has willfully violated the Act, abused his or her authority, or failed to enforce compliance without reasonable justification. During the period that a proposed or final deficiency order is in effect, the Commission may refrain from approving any application for designation as a contract market made by the exchange whose contract market is the subject of the order.

The Conference substitute adopts the Senate provision with an amendment clarifying that a deficiency order may be used to revoke an exemption from the dual trading prohibition.

*15. Deficiency orders—Review (S 202(a); C202)*

The House bill has no similar provision.

The Senate amendment provides a procedure through which a contract market may seek review of a deficiency order including the right to petition the Commission to rescind, modify, or delay the order. The Senate amendment requires that the Commission rule on the petition no less than 20 days prior to the order's taking effect. The Senate amendment also provides that, for purposes of establishing liability and penalties, a violation of a deficiency order is to be considered a violation of an order of the Commission. The Senate amendment also establishes a procedure under which a contract market or other aggrieved person may seek judicial review of a deficiency order.

The Conference substitute adopts the Senate provision with conforming amendments.

*16. Deficiency orders—Reports to Congress (S 202(a))*

The House bill has no similar provision.

The Senate amendment requires that the Commission report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry regarding the issuance of any proposed or final deficiency order or any decision to suspend the privilege of dual trading. It also requires the submission of annual reports to the committees regarding action under new section 8e of the Act regarding deficiency orders and Commission oversight.

The Conference substitute deletes the Senate provision.

*17. Telemarketing fraud (H 202; S 273; C 204)*

The House bill requires each registered futures association to adopt a rule specifying the factors it will consider in determining whether to take disciplinary action to require a member to adopt special supervisory procedures relating to telephone solicitation for new futures or options customer accounts. The procedures would provide at a minimum that a member may not enter any order for a new customer solicited by telephone until 3 days after the customer signs a risk acknowledgement statement.

The Senate amendment requires futures associations to establish supervisory guidelines for telephone solicitation. The guidelines may require that a member may not enter an order for a new customer solicited by telephone until 3 days after the customer signs a risk acknowledgement statement. The Senate amendment requires submission of guidelines to the Commission for approval no later than 180 days after enactment.

The Conference substitute adopts the Senate provision.

*18. Undercover operations (H 203; S 265; C 205)*

The House bill directs the Commission to continue to request assistance from and cooperate with appropriate Federal agencies in the conduct of undercover investigations.

The Senate amendment allows the Commission to authorize, by order, specific employees to carry out undercover investigations into possible violations of the Act. Prior to issuing an order, the Commission must notify the Attorney General. The Commission may not issue an order unless it has first requested that the Attorney General conduct the proposed undercover investigation and the Attorney General has declined to do so. The Senate amendment also requires that the Commission adopt regulations for undercover investigations that are similar to regulations issued by the Attorney General for the conduct of undercover investigations.

The Conference substitute adopts the House provision with an amendment to include a requirement that the Commission and the Department of Justice assess the effectiveness of undercover operations relating to investigations carried out under the Act. The Conference substitute also requires that, within two years from the date of enactment, the two agencies make recommendations to Congress with regard to any additional undercover or other authority for the Commission which either agency believes to be necessary.

*19. Disciplinary Committees—Contract markets (H 203; S 221; C 206(a)(1))*

The House bill requires the establishment in each contract market of a system of disciplinary committees composed of trading members or board of trade staff. The House bill provides that in no instance may more than half of the members of a disciplinary committee be of the same trading status as the person who is the subject of the disciplinary action. The three trading statuses are: (1) floor broker or floor trader; (2) a member other than a member who acts primarily as a floor broker or a floor trader; and (3) staff

members of the board of trade. It provides that a disciplinary committee may have a smaller hearing panel and requires the Commission to issue regulations within 180 days from enactment requiring each contract market to provide public notification regarding disciplinary actions.

The Senate amendment requires each contract market to provide for a diversity of membership on all disciplinary committees. The Senate amendment specifies that a disciplinary committee hearing a major disciplinary matter must include persons from segments of the exchange membership other than that of the person who is the subject of the disciplinary proceeding, including, where appropriate, persons who are not members of the exchange to include a case in which a director or committee member is the subject of the disciplinary action or where the case involves facts related to a manipulation of market prices.

The Conference substitute adopts the Senate provision with an amendment to clarify references to members from differing "segments" with revised language based on the House bill's "trading status" formulation. The Conference substitute also clarifies that, in appropriate situations, members of the contract market that participate in trading pits or principal groups of commodities other than those directly involved in a proceeding may comprise the majority of a disciplinary committee's membership.

*20. Disciplinary actions—Contract markets—Customer notification (S 221; C 206(b)(1))*

The House bill has no similar provision.

The Senate amendment requires that if a final action is taken by a contract market with respect to a disciplinary matter involving a trader regarding an action that affects a customer, the customer must be notified of the key facts and of the action taken.

The Conference substitute adopts the *Senate* provision.

*21. Board memberships and Disciplinary Committees—Contract markets (H 204; S 221; C 206(a)(2))*

The House bill requires that each contract market, in accordance with regulations, publish a list of major rule violations committed on that contract market. The House bill requires the Commission to issue regulations within 180 days of enactment to preclude membership on any governing board or disciplinary committee of any member found to have committed any major violations of contract market rules.

The Senate amendment prohibits the participation on any contract market governing board by any individual found to have violated commodity or any other laws reflecting on their fitness.

The Conference substitute adopts the House provision with an amendment to incorporate provisions of the Senate amendment with respect to individuals found to have violated commodity or other laws reflecting on their fitness.

*22. Board memberships—Diversity of membership and outside members (H 204(c); S 221; C 206)*

The House bill requires that at least 20% of the members of any contract market or registered futures association governing board be outside members as defined by the Commission.

The Senate amendment requires each contract market to provide for meaningful representation on its board of diverse interests including futures commission merchants, producers and consumers, floor brokers and traders, and representatives of a variety of the commodities traded. The Senate amendment also includes a requirement that at least 20% of the members of the board of a contract market be individuals who are not contract market members and that at least 10% of the board must consist of farmers, producers, merchants, or exporters of principal commodities traded on the exchange. Under the Senate amendment, an applicant for registration as a futures association must provide for a diversity of membership on its governing boards and disciplinary committees (including the requirement that 20% of the Board be non-members or non-regulated persons). The Senate amendment also requires the Commission to adopt regulations for the implementation of the section within 270 days from the date of enactment.

The Conference substitute adopts the Senate provision with an amendment to clarify that not less than 20% of the regular voting members of contract market and registered futures association boards must be outside members. Regular voting members are those members that routinely vote on matters before the Board, rather than those eligible to vote only in the event of a tie vote.

*23. Registered futures associations—Publication of violations and participation of rules violators (H 204(b); C 206(b)(2))*

The House bill requires the Commission, by regulation issued within 180 days of enactment, to require each registered futures association to publish a list of major rule violations and to preclude from membership on a disciplinary committee or governing board any individual who has been found to have committed any major violation.

The Senate amendment has no similar provision.

The Conference substitute adopts the House provision.

*24. Floor trader registration (H 205; S 231; S 232; S 261; C 207)*

The House bill defines the term "floor trader" as anyone who trades in a contract market solely for his or her own account. It prohibits contract market trading by a floor trader unless the person is registered under the Act. The House bill subjects floor traders to reporting requirements and provides that floor traders are not to be subject to certain actions brought under State jurisdiction. The House bill authorizes the Commission to register floor traders and to refuse to register floor traders in certain circumstances. The Commission must issue regulations not later than 180 days after the date of enactment.

The Senate amendment similarly defines the term "floor trader" in section 261. The registration, reporting, and State jurisdiction provisions are identical to provisions of the House bill.

The Conference substitute adopts the House provision with an amendment to include the Senate definition and harmonize the effective dates.

The Conferees note that while current Commission rules require that floor brokers must renew their registration every two years, such frequent renewals are not needed to fulfill the purposes underlying the registration of floor traders. The central goal of requiring registration of floor traders is to assure that these individuals are subject to the same background fitness checks as other Commission registrants and to allow the Commission to act with respect to the person's registration in appropriate cases. The Conferees encourage the Commission to develop means of maintaining the up-to-date status of floor trader registrations that are less frequent than the system of two-year renewals required of floor brokers who execute purchases and sales for customer accounts.

*25. Enhancement of registration requirements (H 206; S 267; C 208)*

The House bill authorizes the Commission to refuse to register or to revoke the registration of any person: who is enjoined by a court from engaging in certain illegal activities; who has been convicted of certain felonies; or whose activity is restricted by a foreign futures regulatory authority.

The Senate amendment has an identical provision.

The Conference substitute adopts the House provision.

*26. Assessment and enforcement of civil money penalties (H 207; S 244; C 209)*

The House bill reorganizes section 6 of the Act. It requires the Commission, in determining the amount of any civil money penalty, to consider the appropriateness of the penalty to the gravity of the violation. The House bill removes provisions in current law requiring that the Commission consider the appropriateness of the size of the penalty to the size of the business or economic strength of the individual subject to the action. The House bill provides that fifteen days after a penalty is assessed for a violation of the Act, an individual who has not paid the penalty nor filed a notice of appeal is to be restricted from trading on any contract market and the individual's registration is to be revoked.

The Senate amendment contains provisions which are substantially the same as the House provision.

The Conference substitute adopts the House provision.

*27. Ethics training (H 208; S 264; C 210)*

The House bill requires registrants to attend periodic training sessions to ensure that they understand their ethical responsibilities. The Commission has 180 days from enactment to issue regulations.

The Senate amendment is identical to the House provisions except that the Commission would be allowed 270 days to issue regulations.

The Conference substitute adopts the House provision.

*28. Nationwide service of process and venue (H 209; S 274; C 211)*

The House bill specifies the judicial districts in which a private right of action may be brought under section 22 of the Act and provides that process may be served in the judicial district of which the defendant is an inhabitant or wherever the defendant may be found.

The Senate amendment includes provisions making identical modifications in existing law.

The Conference substitute adopts the House provision.

*29. Monitoring of Hedge Exemptions (H 210)*

The House bill requires the Commission to issue regulations that require each contract market to monitor closely the trading activities of any person holding a hedge exemption. It also requires the contract market to take appropriate action when it finds that anyone with such an exemption has a position which is not a bona fide hedging position, and preserves the authority of the Commission and contract markets to restrict transactions and positions in accordance with established limits on trading. Regulations are to be promulgated to implement the provision within 180 days from date of enactment.

The Senate amendment has no similar provision.

The Conference substitute deletes the House provision. The House provision would require the Commission to issue regulations requiring contract markets to monitor closely the trading activities of any person "granted an exemption" from the speculative position limits which section 4a of the Act authorizes the Commission to set. Subsequent to the passage of the House bill, the Commission approved permanent rules of the Chicago Board of Trade (CBT) setting exchange limits for those contract markets that previously had only Commission-set limits. Thus, by voluntarily adopting its own speculative position limits for these commodities, the CBT is already specifically required by the Act and Commission regulations to administer and monitor its granting of hedge exemptions and has authority to address violations of such exemptions—the intent of the House provision. Additionally, the Commission, through its regular rule enforcement review process retains and uses its authority to monitor exchange compliance monitoring of hedge exemptions they grant.

The Conferees agreed to delete the House provision from the bill in recognition of the actions taken since the bill was first passed by the House. In essence, a hedge exemption monitoring system to help police against abuses has been put in place since House action, in particular, at the CBT where concerns which originally prompted the House provision were noticed. In light of these actions, the provision would add little practical authority to the Commission or to exchanges. Nonetheless, in deleting the provision, it remains the intent of the Conferees that the Commission and exchanges remain diligent in exercising monitoring and enforcement authority to prevent abuses of hedge exemptions.

*30. Increased penalties (H 211; S 243; C 212)*

The House bill imposes increased monetary penalties for felony violations of the Act. In particular, the House bill: increases the penalty for embezzlement to $1 million for corporations and $500,000 for individuals; increases the penalty for manipulation of prices to $1 million for corporations and $500,000 for individuals; and increases the fine for a Commissioner or Commission employee engaging in trading or disclosing insider information to $500,000.

The Senate amendment alters the penalty structure for civil as well as felony violations. The Senate amendment: increases penalties for violation of the Act from $100,000 to the higher of $100,000 or triple the monetary gain attained illegally; increases the penalty for failure of a contract market or registered futures association to comply with its rules of government to $500,000; and deletes a provision of existing law directing that the penalty be appropriate to the net worth of the offending person.

The Conference substitute adopts the House provision with an amendment to increase penalties for civil violations as required in the Senate amendment.

*31. Contract market emergency actions (H 212; C 213)*

The House bill requires the Commission to issue regulations which specify the terms and conditions under which a contract market (by a two-third votes of its governing board) may declare a market emergency. It also requires notification by the contract market to the Commission prior to implementation of any emergency action. Where prior notification is not feasible, notification must be made by the earliest possible date. The House bill requires that within ten days of receiving such notification (or as soon as is practicable), the Commission is to approve or disapprove the emergency rule and report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission is required to promulgate regulations implementing the provision within 90 days of the date of enactment.

The Senate amendment includes no similar provision.

The Conference substitute adopts the House provision with an amendment. Under the Conference substitute the Commission must, within ten days of receipt of notification, or as soon as practicable thereafter, determine whether it is appropriate either:

(1) to permit the emergency rule to remain in effect; or

(2) to suspend the effect of such rule pending review.

The Conference substitute requires that the Commission submit a report to Congress regarding any such determination, and the basis thereof, within 10 days of receipt of notification from the contract market. If the Commission's report to Congress is submitted after the ten day period has elapsed, the report shall include the Commission's explanation as to why submission within the ten day period was not practicable. The Conference substitute specifies the judicial review process that would apply to a determination by the Commission to suspend an emergency rule.

*32. Insider trading (H 213; S 269; C 214)*

The House bill makes it a felony for any person who is an employee or board member of a board of trade to disclose material, nonpublic information for any purpose other than the performance of the person's official duties. It also makes it a felony for an individual to trade for his or her own account on the basis of material, nonpublic information regarding a trade by a person to whom the individual is a principal or employee if the trade to be conducted by the person to whom the individual is a principal or employee is to be in excess of reporting levels established by the Commission. The House bill also makes to a felony to disclose information related to a trade in excess of reporting levels to any individual for the purpose of assisting the individual in executing a trade for his or her own account. A violation is punishable by a fine of up to $100,000 plus profits realized and imprisonment for up to 3 years. The Commission is required to issue regulations within 360 days from the date of enactment.

The Senate amendment makes it a felony for any employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association, in violation of a regulation issued by the Commission, to willfully and knowingly trade on that information or to disclose the information for a purpose inconsistent with the person's official duties.

The Conference substitute adopts the Senate provision with an amendment. In addition to the explicit felony violation in the Senate amendment, the substitute makes it a felony for any person to willfully and knowingly trade for his or her own account on the basis of material, nonpublic information which the individual knows was obtained illicitly from an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association. The substitute makes a violation subject to a penalty of up to $500,000 and imprisonment of up to five years, or both. A violator may also be subject to costs of prosecution as part of the penalty.

Under the Conference substitute, the Commission is required to issue regulations implementing the provision no later than 360 days after the date of enactment.

*33. Qualifications of commissioners (H 214; C 215)*

The House bill requires that each Commissioner have demonstrated knowledge in futures trading or its regulation and in the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights, and interests covered by the Act and that the President, in appointing members to the Commission, seek to ensure that the demonstrated knowledge of the Commissioners is balanced with respect to these areas.

The Senate amendment includes no similar provision.

The Conference substitute adopts the House provisions with an amendment to clarify that the President must nominate prospective Commissioners who meet the demonstrated knowledge test.

*34. Commission operations (S 102; C 216)*

The House bill has no similar provision.

The Senate amendment amends section 12(b) of the Act to authorize the Commission to hire up to 8 additional Senior Executive Service employees which the Office of Personnel Management shall authorize.

The Conference substitute adopts the Senate provision.

*35. Margins on stock index instruments (H 215)*

The House bill requires the Commission to monitor initial and maintenance margins on stock index futures to maintain the integrity of the futures markets, and to protect the public interest. It directs the Commission to take such action as it deems necessary to require sufficient margin levels if a determination is made that they are not properly established and present a clear and present danger to the integrity of the markets and the public interest. The House bill also provides that if the Commission takes such action, it may then require that the contract market submit to the commission all rules relating to margin levels for the Commission's approval.

The Senate amendment has no similar provision.

The Conference substitute deletes the House provision.

*36. Monitoring of index arbitrage trading (H 216)*

The House bill requires the Commission to monitor index arbitrage and related program trading strategies to ensure that such trading does not threaten the integrity of the futures markets, create excess volatility, nor otherwise adversely affect the public interest. The House bill expresses the sense of Congress that if the Commission determines that arbitrage trading presents a clear and present danger to the integrity of the market, it should take such action pursuant to its existing authority as it deems necessary to ensure that such arbitrage trading does not present such a clear and present danger.

The Senate amendment has no similar provision.

The Conference substitute deletes the House provision.

*37. Prohibition on voting by interested members (H 217; S 221; C 217*

The House bill provides that no member of a contract market governing board or committee thereof may vote on any contract

market rule if it is determined that the member or the legal entity of which the member is an officer or employee or of which the member owns a substantial interest, or a legal entity affiliated with the member have a direct financial interest in the subject matter of the rule.

The Senate amendment requires each contract market to provide for the avoidance of conflict of interest in all deliberations by the governing board and any disciplinary and oversight committees. At a minimum, a member of such a board or committee may not vote on an issue in which he or she is the named party in interest. The Senate amendment also provides that, before taking emergency market action, the governing board, directly or through an authorized person, shall review the positions of all members and their affiliated firms and shall consider whether any member must abstain from participating due to those positions.

The Conference substitute adopts the Senate provision with an amendment. The Conference substitute requires that each contract market's conflict of interest rules require: that a board or committee member abstain from a vote on any significant action if he or she knowingly has a direct and substantial financial interest in the subject matter of the vote; that the board or committee itself or a designated staff member review the market positions of each member of the board or committee prior to deliberations on any significant action; and that the minutes of the meeting reflect that such a position review has taken place. The Conference substitute further provides that no contract market, or authorized member or contract market official, employee or agent thereof, shall be liable for having conducted a review of a member's market position and taken or not taken further action regarding that member's participation in the deliberation at issue, except for an action brought by the Commission charging violations of the Act based on allegations that the contract market or its official employees or agent that conducted the review failed to conduct an adequate review under this subparagraph or used or disclosed any information obtained in the review process for any purpose inconsistent with that person's official duties. The Conference substitute also requires the Commission to issue regulations specifying the conditions under which a member who is required to abstain from voting may participate in the deliberations of the board or committee.

The Conferees intend that, for purposes of this provision, any member of a governing board or a disciplinary or other oversight committee would be considered to be "affiliated" with a firm:

(1) where such member serves as an employee, officer, or director; or

(2) that is the parent company as determined by the Commission of any firm of which the member is an employee, officer, or director.

*38. Study of Agricultural commodity contract delivery points (H 218; S 275)*

The House bill requires GAO to conduct a study of the provision for and functioning of delivery on agricultural futures contracts and requires a report on the study within 1 year from date of enactment.

The Senate amendment is substantially the same as the House provision except that it specifies two additional aspects which should be studied.

The Conference substitute deletes both the House and Senate provisions. The Managers note that in response to the request of the Chairman of the House Committee on Agriculture, the General Accounting Office has published a report on the subject addressed in the House bill and Senate amendment. The report—"Chicago Futures Markets: Selecting Agricultural Futures Delivery Points Involves Tradeoffs," U.S. General Accounting Office, Washington, D.C., GAO, GGD-91-84—was released in June, 1991.

*39. Assessments on transactions (H 219; S 103; C 218)*

The House bill requires GAO to conduct a study on the feasibility of funding Commission activities through collection of fees on futures and options transactions; requires a report on the study within 1 year from date of enactment.

The Senate amendment requires the Commission to promulgate regulations containing a schedule of appropriate fees to be assessed against "persons benefiting from services rendered and activities and functions performed by the Commission"; provides that receipts from fees are not to exceed $3.9 million in fiscal year 1992, $7.8 million in fiscal year 1993, $13.8 million in fiscal year 1994, $20.8 million in fiscal year 1995, and $21.7 million in fiscal year 1996.

The Conference substitute adopts the House provision.

*40. International competitiveness (H 220; C 219)*

The House bill requires the Commission to study the competitiveness of U.S. boards of trade compared with foreign boards of trade and requires a report within 18 months.

The Conference substitute adopts the House provision with an amendment. The Commission is to include in its study consideration of whether trends in foreign markets are the result of regulatory action as opposed to other competitive, economic, regional, or commercial factors. The Conference substitute also directs the Commission to analyze whether significant risk is imposed on the public and on market users in foreign countries as a result of lack of regulatory safeguards. The Conference substitute also directs the Commission to make efficient use of available resources by requesting the assistance of other Federal entities including the General Accounting Office and the Office of the U.S. Trade Representative.

*41. Computerized trading (H 221; S 270; C 220)*

The House bill requires the Commission to conduct a study regarding the feasibility of having all futures contracts traded electronically and requires a report within two years from date of enactment. The House bill also requires that the Commission establish a pilot program to collect information on an encourage the use of computerized and electronic trading.

The Senate amendment directs the Commission to facilitate the development and operation of computerized trading as an adjunct to open outcry and directs Commission to cooperate with U.S. trade officials in removing trade barriers on international use of electronic trading systems.

The Conference substitute adopts the Senate provision with an amendment to provide for a progress report consistent with the House bill.

*42. Money penalties in civil court actions (H 222; 245; C 221)*

The House bill authorizes the Commission to seek a court's imposition of a civil money penalty of up to the higher of $100,000 or triple the monetary gain to a charged individual in the same action in which an injunction is sought for a civil violation under the Act.

The Senate amendment is nearly identical to the House provision.

The Conference substitute adopts the Senate provision.

*43. Civil Damages; Liability of future commission merchants (S 241; C 222)*

The House bill contains no similar provision.

The Senate amendment requires each contract market and registered futures association to have in place procedures for customers to be awarded actual damages for claims arising from a contract market rule violation in the execution of an order for a floor trade. In addition, punitive damages of up to twice the amount of actual damages may be awarded where it is found that the violation was willful and intentional. In each case, if a floor broker found to be responsible for the violation does not pay the award, the futures commission merchant (FCM)—who selected the broker for execution of the trade may be made responsible for paying the award to the customer, except that the FCM would not be responsible for paying punitive damages unless the FCM willfully and intentionally selected the floor broker to facilitate the violation. The Senate amendment includes a similar provision which applies to private actions brought by futures customers in Federal court or under Commission reparations procedures.

The Conference substitute adopts the Senate provision with an amendment to clarify that customers need not proceed against floor brokers for actual damages prior to proceeding against the FCM.

The Conferees note that under the Senate amendment, a futures commission merchant who selected a floor broker to execute a customer order and who is responsible under section 2(a)(1) of the Act for the floor broker's violation in executing the order, may have been required to satisfy any award to the customer only "if the floor broker fails to do so."

By its references to floor brokers whom the futures commission merchant selects, the Senate amendment is directed to the conduct of so-called independent floor brokers with whom the futures commission merchant has some contractual or other selection arrangement.

The Conferees were concerned that section 241 of the Senate amendment, by conditioning a futures commission merchant's liability for payment of actual damages only "if the floor broker fails to do so," may have been read as requiring the customer to proceed first against the "independent" broker for actual damages even if the customer establishes that the broker was acting within the scope of the agency under section 2(a)(1). This would have been a retreat from a customer protection aspect of existing section 2(a)(1) under which customers may proceed against a firm without the necessity of also suing the employee. Moreover, in Commission reparations cases, firms are held jointly and severally liable for the damage award with their non-employee agents. By striking this conditional language with respect to actual damages, the Conferees intend to make this provision consistent with these current practices.

*44. Customer restitution (S 242; C 223)*

The House bill has no similar provision.

The Senate amendment provides that the Commission may require that any person found to have violated the Act pay restitution to customers in the amount of damages proximately caused by violations of such person.

The Conference substitute adopts the Senate provision.

*45. False information to SROs (S 246; C 212(a))*

The House bill contains no similar provision.

The Senate amendment makes it a felony to supply false information to a self-regulatory organization. A violation is punishable by a fine of up to $100,000 or imprisonment of up to 5 years, or both.

The Conference substitute adopts the Senate provision with an amendment to include penalty levels from House bill.

*46. Willful violations; false and misleading statements (S 247; C 212)*

The House bill contains no similar provision.

The Senate amendment provides that anyone who knowingly and willfully commits any violation of the Act or regulations thereunder or submits false information in any application, report or document required to be filed under the Act is to be subject to a fine of up to $500,000 or imprisonment of up to 5 years, or both.

The Conference substitute adopts the Senate provision with amendments to:

(1) include the penalty levels from the House bill: and (2) clarify that generally the provision would apply to violations which are committed willfully, but that no person would be subject to imprisonment for the violation of any rule or regulation if he or she proves that he or she had no knowledge of such rule or regulation. The structure parallels the scienter standard under the similar provision of the Securities and Exchange Act of 1934 (15 USC 78ff) (see *U.S.* v. *Dixon*, 536 F2d 1388 (2d Cir., 1976)).

*47. Complaints against registered persons; class action suits (S 248; C 224)*

The House bill has no similar provision.

The Senate amendment authorizes individuals similarly situated to file suits for violations of the Act as class action suits if the Commission has adopted final rules to permit such actions. The Senate amendment requires that the Commission propose rules within 270 days from the date of enactment.

The Conference substitute adopts the Senate provision.

*48. Penalties study and guidelines (S 249; C 225)*

The House bill contains no similar provision.

The Senate amendment requires the Commission to study penalties imposed for violation of the Act and provides that not later than 2 years after date of enactment, the Commission is to report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry on the results of the study. The report shall propose industry wide penalty guidelines or rules to make penalties consistent among exchanges. In addition, it shall propose guidelines or rules to make Commission penalties consistent.

The Conference substitute adopts the Senate provision with an amendment to include registered futures associations.

In adopting this provision, the Conferees intend for the Commission to adopt and publish guidelines, subject to public notice and comment, to govern the imposition of civil penalties in Commission administrative actions. The Conferees believe that registrants should not be subject to the maximum penalty which may be imposed in a Commission administrative action when the violation is of a less serious nature. The Conferees expect that these guidelines will establish maximum tiers of civil penalties which may be imposed for different types of violations, with the higher tiers available only with respect to violations of a more serious nature such as those involving fraud or manipulation, substantial losses to another person or substantial gains to the person responsible for the violation, or reckless disregard of regulatory requirements. Through these guidelines, the Conferees expect the Commission to clarify that occasional violations of certain other regulatory obligations will not be subject to the higher tiers of civil monetary penalties.

*49. Foreign futures authority—definition (H 301; S 261; C 404)*

The House bill defines foreign futures authority.

The Senate amendment is nearly identical to the House provision.

The Conference substitute adopts the Senate provision

*50. Foreign futures authority—subpoenas (H 302; S 251; C 301)*

The House bill gives the Commission and ALJs authority to issue subpoenas and take certain actions to assist foreign futures authorities in investigations.

The Senate amendment is nearly identical to the House provision.

The Conference substitute adopts the Senate provision.

*51. Foreign futures authority—cooperation (H 303; S 254; C 302)*

The House bill authorizes the Commission to cooperate with any foreign futures authority.

The Senate amendment is identical to the House provision.

The Conference substitute adopts the House provision.

*52. Foreign futures authority—investigative assistance (H 304; S 255; S 256; C 303)*

The House bill authorizes the Commission to assist any foreign futures authority in any investigation that the authority is conducting into possible violations of its nation's futures trading laws and authorizes the Commission to conduct any investigation it deems to be necessary to assist in the authority's request. The House bill also authorizes the Commission to accept payment and reimbursement from a foreign futures authority for services provided.

The Senate amendment is nearly identical to House provisions.

The Conference substitute adopts the House provision. The Conference substitute authorizes the Commission, in its discretion, to provide assistance to a foreign futures authority which is conducting an investigation relating to a futures or options matter that the foreign authority administers or enforces.

Although the new subsection (f)(1) of section 12 authorizes the Commission to provide such assistance without regard to whether the facts stated in the request would also constitute a violation of any U.S. law, the Conferees intend that this authority only be exercised in conjunction with the future requirement that compliance with the request should not prejudice the public interest of the United States, as stated in the new subsection (f)(2)(B).

The Conferees are sensitive to the novel nature of the power being granted to the Commission to require a United States citizen to respond to any inquiry rooted in a matter that is not itself a violation of United States law. The Conferees emphasize, therefore, that in a case where there is no clear interest of the United States to be discerned by cooperation with the inquiry, the Conferees expect that the Commission will not grant the request. The Conferees expect that the Commission's regulatory focus will continue to be the protection of the interest of the United States in an orderly and fair marketplace.

In making this determination, the Commission would consider, among other things, the existence of appropriate safeguards against possible abuse or overuse of the procedure by foreign authorities, the need to obtain reciprocal cooperation from foreign authorities, and the demands of such requests by foreign authorities on the Commission's own resources. The Conferees understand that, in using this new authority, the Commission will follow the requirements of its rules relating to the gathering of information, including rules governing investigations found in 17 C.F.R., Part 11.

For example, the rules relating to compulsory process require that the Commission itself issue an order authorizing the use of subpoenas in each particular investigation and designating the specific staff who may issue such subpoenas. Further, a Commission order authorizing the use of subpoenas must include a general description of the scope of the investigation. In this regard, the Conferees understand that such an order issued under this new authority will, at a minimum, identify specifically the provisions of foreign law that form the basis of the investigation. The Commission also is required to make a copy of the order available for inspection by any person who is required to provide documents or testimony pursuant to a subpoena. The Conferees also understand that, in the event that the recipient of a subpoena issued to assist a foreign authority chooses not to comply, the Commission must vote on whether to authorize an application to enforce the subpoena in Federal district court.

*53. Foreign futures authority—disclosure of information received from foreign futures authorities (H 305; S 252; C 304)*

The House bill specifies that the Commission is not to be compelled to disclose any information or data obtained from a foreign futures authority except that it cannot withhold information from Congress or in a judicial proceeding. Under the House bill provisions of the Act allowing Commission to disclose information are not to apply to information obtained from a foreign futures authority.

The Senate amendment states that the provisions of the Act allowing the Commission to disclose information are not to apply to information obtained from a foreign futures authority.

The Conference substitute adopts the House provision with an amendment to clarify that this provision of the Act is a statute described in subsection (b)(3)(B) of section 552, title 5, U.S. Code (the Freedom of Information Act). Recent years have brought a dramatic increase in the number and volume of futures contracts traded worldwide, and an increasing economic interdependence among financial markets worldwide. As a process of globalization of the futures markets continue, the Commission's international cooperative efforts with foreign futures regulatory and self-regulatory authorities in enforcement matters have increased greatly. The Conferees believe that these efforts are an important component of the Commission's accomplishment of its enforcement responsibilities under the Act.

The Commission currently cooperates with a wide range of foreign regulatory, self-regu-

latory and criminal authorities in enforcement matters, via formal and informal information sharing arrangements. In the past two years, the Commission has signed five memoranda of understanding (MOUs) with regulatory counterparts in the United Kingdom, France, Canada, and Brazil, covering information sharing and assistance for the full range of Commission enforcement concerns. These MOUs are important tools in the Commission's efforts to enforce effectively the Commodity Exchange Act in an increasingly international environment. The Conferees understand that the Commission will enter into additional MOUs with regulatory authorities in other countries.

The Conferees are aware that the Commission has been unable to bring into force and may be unable to agree upon MOUs with certain foreign authorities because of conflicts between the confidentiality requirements of foreign laws and the Freedom of Information Act (FOIA). Similar conflicts also exist because of the possibility that the Commission could be required to disclose confidential records obtained from a foreign authority pursuant to a subpoena issued to the Commission in an action to which the Commission is not a party. These conflicts arise because some foreign laws require that documents provided to a foreign authority must, under certain circumstances, be kept confidential, unless disclosure is necessary or required in the course of an investigation or enforcement action brought by that authority. The Commission, of course, must comply with FOIA, valid court orders requiring production of Commission records, and other laws that may preclude withholding documents provided by foreign authorities from the public.

The Conference substitute would eliminate these potential conflicts by amending section 8 of the Commodity Exchange Act to enable the Commission to maintain the confidentiality of certain information received from foreign futures authorities. This provision is crucial to the Commission's ability to negotiate additional MOUs, as well as to bring into forces its existing MOU with its counterpart authority in France. I order to facilitate the cooperation of foreign authorities in providing the Commission with investigate assistance, the Conferees believe that documents furnished to the Commission should be exempt from disclosure if the foreign authority represents to the Commission that it has made a good faith determination that the disclosure of the documents would violate the confidentiality requirements of its country's laws.

*54. Foreign futures authority—disclosure of information to foreign futures authorities (H 306; S 253; C 305)*

The House bill permits the Commission to furnish information regarding the Commission's investigations upon the request of a foreign futures authority.

The Senate amendment is nearly identical to the House provision.

The Conference substitute adopts the Senate provision.

*55. Authorization (H 401; S 101; C 401)*

The House bill authorizes the appropriation of $48.5 million for fiscal year 1992 and $53 million for fiscal year 1993.

The Senate amendment authorizes the appropriation of $48.3 million for fiscal year 1992, $56.1 million for fiscal year 1993, $61.9 million for fiscal year 1994, $68.2 million for fiscal year 1995, and $79.1 million for fiscal year 1996.

The Conference substitute adopts the House provision with an amendment to authorize appropriations to carry out the Commodity Exchange Act of $53 million for fiscal year 1993 and $60 million for fiscal year 1994.

*56. Technical Amendments (H 402; C 402)*

The House bill includes technical amendments.

The Senate amendment has no similar provision.

The Conference substitute adopts the House provisions.

*57. Effective date (H 403; S 401; C 403)*

The House bill provides that the Act and amendments made by it are to take effect on the date of enactment.

The Senate amendment states that except as otherwise provided, the provisions are to take effect on the date of enactment.

The Conference substitute adopts the Senate provision.

*58. Definitions (S 261; C 404)*

The House bill has no similar provision.

The Senate amendment reorganizes current sec. 2(a) of the Act and includes definitions of "foreign futures authority" and "floor trader."

The Conference substitute adopts the Senate provision.

New section 1a of the Act, as added by section 404(a) of the Conference substitute, reorganizes the definitions that heretofore were included in section 2(a) of the Act. In adopting this provision the Conferees do not intend to imply that the current definitions are in any way altered by their recodification here.

The Conferees would like to clarify, however, that transactions involving the sale of any cash commodity for deferred shipment or delivery (forward contracts) are excluded from the term "future delivery" under section 2(a)(1)(A) of the Act.

To the extent that *Bybee* v. *A-Mark Precious Metals, Inc.*, 945 F.2d 309 (9th Cir. 1991), can be read to imply that certain contracts may simultaneously be futures contracts and forward contracts, the Conferees emphasize that this misinterprets a long-existing interpretation of law. Under the Commodity Exchange Act, forward contracts and futures contracts are separate categories and have been since the original enactment of futures statutes decades ago.

The *A-Mark* decision has raised the concern that scam artists will rely on the decision to market off-exchange futures in the guise of cash forward contracts. To address that concern, the Conferees encourage the Commission and the states to continue to pursue fraud and illegal off-exchange sale of futures under section 12(e) and other recognized legal precedents, such as *Commission* v. *Co Petro Marketing Group*, 680 F.2d 573 (9th Cir. 1982), another Ninth Circuit decision which the *A-Mark* court itself confirmed. Section 2(a)(1)(A) of the Act expressly declares that the term "future delivery," reenacted in the Conference substitute as new section 1a(11) of the Act, "shall not include any sale of any cash commodity for deferred shipment or delivery," i.e., cash forwards. The jurisdiction of any state or other Federal authority which otherwise has jurisdiction over any such forward contract is not precluded.

*59. Publication of Commission opinions (S 206; C 226)*

The House bill contains no similar provision.

The Senate amendment provides that whenever the Commission issues an opinion, release, rule, order, interpretation, or other determination, publication shall be made of any Commissioner's separate opinion or dissent.

The Conference substitute adopts the Senate provision.

*60. Access by GAO to information maintained by SROs (S 266)*

The House bill contains no similar provision.

The Senate amendment provides GAO with access to and the right to examine all records (except those relating to open position data unless at the request of the House or Senate Agriculture Committee) in the possession of any contract market, clearinghouse, or registered futures association under the same terms and conditions as the Commission. The Senate amendment also directs the GAO to maintain the same level of confidentiality for information made available as does the Commission and provides that the Comptroller General's right of access under the section is to be enforceable pursuant to 31 USC 716.

The Conference substitute deletes the Senate provision.

*61. Suspension of registrants charged with felonies (S 268; C 227)*

The House bill contains no similar provision.

The Senate amendment authorizes the Commission to suspend or modify the registration of any person charged with certain violations of the Act or other Federal or State laws. Action can only be taken after a hearing.

The Conference substitute adopts the Senate provision.

*62. Interests of producers of agricultural commodities (S 271)*

The House bill has no similar provision.

The Senate amendment directs the Commission, in carrying out the Act, to endeavor to serve the interest of agricultural producers.

The Conference substitute deletes the Senate provision.

*63. Appeals by registered futures associations (S 272; C 228)*

The House bill contains no similar provision.

The Senate amendment strikes the parenthetical provisions of section 17 of the Act which prohibits registered futures associations from appealing certain decisions.

The Conference substitute adopts the Senate provision.

*64. Risk Assessment for holding company systems (S 263; C 229)*

The House bill has no comparable provision.

The Senate amendment empowers the Commission to adopt rules or regulations to require futures commission merchants (FCMs): (1) to provide reports to the Commission regarding the activities of affiliated persons that are reasonably likely to affect materially the financial or operational condition of such entities; and (2) to obtain information and make and keep records concerning the FCM's policies, procedures or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its affiliated persons.

The Commission generally could require from FCMs summary reports of such information no more frequently than quarterly, although further reports may be required based upon adverse market conditions, or based on questions raised by the routine reports filed by the FCM or other available information.

Under the Senate amendment, an "affiliated person" is defined as any person di-

rectly or indirectly controlling, controlled by or under common control with an FCM, as the Commission determines by rule or regulation will effectuate the purposes of this section.

An FCM would be deemed to be in compliance with such recordkeeping or reporting requirements with respect to affiliated persons that are banks (including foreign banks), savings and loan associations, bank holding companies and savings and loan holding companies (and their subsidiaries which are not registered securities brokers or dealers), if such FCM provides copies of reports filed by such affiliated persons with their banking regulatory agency. The Commission may adopt rules requiring FCMs to obtain, maintain or report supplemental information if the Commission explicitly finds that such supplemental information is necessary to assess potential risks to FCMs. The Commission must also first request the appropriate banking regulatory agency to expand its reporting requirements to include such supplemental information.

The Senate amendment requires that the Commission notify the Federal banking agency of any concerns of the Commission regarding significant financial or operational risks resulting from the activities of an FCM to an affiliated persons thereof which is subject to examination by or reporting requirements of the Federal banking agency.

Under the Senate amendment, the Commission may provide exemptions from the reporting requirements either conditionally or upon specified terms and conditions or for stated periods upon considering, among other factors—

(1) whether information of the type required is available from a supervisory agency, a State insurance commission or similar state agency, the Securities and Exchange Commission, or a similar foreign regulator;

(2) the primary business of the affiliated person;

(3) the nature and extent of domestic or foreign regulation of the affiliated person's activities;

(4) the nature and extent of the FCM's commodity futures and options activities; and

(5) with respect to the FCM and its affiliated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in U.S. futures markets.

The Senate amendment provides that the Commission must treat any information reported, or supplied to it by any domestic or foreign regulatory agency, under this provision as information subject to the confidentiality provisions of section 8 of the Commodity Exchange Act (Act), which generally prevents disclosure to third parties.

Nothing contained in this section shall be construed to supersede or limit in any way the authority or powers of the Commission pursuant to any other provision of the Act or regulations promulgated thereunder.

The Conference substitute adopts the Senate provision.

The Conference substitute establishes recordkeeping and reporting requirements for futures commission merchants to assist the Commission in monitoring their exposure to risk from the activities of affiliates. This section is essentially identical to the risk assessment report and recordkeeping requirements established for holding company affiliates of broker-dealers under the Market Reform Act of 1990. Thus, in the case of affiliated persons who are subject to the examination or reporting requirements of a Federal banking agency, the Conference substitute establishes an alternative procedure for futures commission merchants to comply with the legislation's recordkeeping and reporting requirements. To utilize this alternative, a futures commission merchant may obtain copies of reports of condition and similar reports filed by the affiliated persons with the appropriate Federal banking agency. However, a futures commission merchant is not required under any circumstances to obtain copies of examination reports. Moreover, it is not a condition of this procedure that a futures commission merchant obtain or furnish to the Commission copies of reports, such as the F.R. 2068 filed with the Board of Governors of the Federal Reserve System, that are subject to confidentiality procedures similar to or more stringent than those applicable to examination reports.

*65. Margins on stock index futures (S 301; C 501)*

The House bill has no similar provision.

The Senate amendment requires any contract market in a stock-index futures contract (or option thereon) to file with the Board of Governors of the Federal Reserve System (Board) any rule setting or changing levels of margin (initial or maintenance) for such contract. The Board may at any time request the contract market to set margin for any stock index futures contract (or option thereon) at such levels as the Board in its judgment determines are appropriate to preserve the financial integrity of the contract market or its clearing system or to prevent systemic risk. If the contract market fails to do so within the time specified by the Board in its request, the Board may direct the contract market to alter or supplement its rules as specified in the request.

Under the Senate amendment, the Board is authorized, subject to such conditions as it may determine, to delegate any or all of its authority under this subsection only to the Commission. The Commission's existing authority to direct a contract market, upon finding an emergency to exist, to raise temporary emergency margin levels on any such futures contract (or option thereon) is maintained.

The Senate amendment provides that any action taken by the Board under this section directing a contract market to alter or supplement a margin rule is subject to review only in the Court of Appeals where the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. This review is to be based upon an examination of all information before the Board at the time the determination was made. The court reviewing the Board's action may not enter a stay or order of mandamus unless it has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

The Conference substitute adopts the Senate provision with an amendment to provide that the judicial review provisions relating to an action taken by the Board of Governors of the Federal Reserve System will also apply to an action taken by the Commission under delegated authority.

*66–69. Exemptive Authority (S 302; C 502)*

The Senate amendment proposes to add new subsections (c) through (e) to section 4 of the Act. New section 4(c) authorizes the Commission, by rule, regulation, or order, to exempt any agreement, contract, or transaction (including persons or class or persons involved with such transaction), or class thereof, from the exchange-trading or any other requirements of the Act other than section 2(a)(1)(B). The exemption may be unconditional or subject to stated terms, conditions, or time periods. To grant an exemption, the Senate amendment provides that the Commission must first determine after notice and opportunity for hearing that it would be consistent with the public interest.

The Senate amendment also provides that the Commission may not grant an exemption from the exchange-trading requirement of the Act unless the person seeking the exemption demonstrates to the Commission's satisfaction that the exemption would be consistent with the public interest and with the purposes of the Act and that the agreement, contract or transaction—

(1) will be entered into solely between institutional participants;

(2) will be entered into in connection with a line of business or for hedging or risk managment purposes; and

(3) will not have a material adverse affect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under the Act.

The Senate amendment limits "institutional participants" to the following persons or classes of persons that the Commission determines have the financial and other qualifications to fulfill the terms and conditions of the agreement, contract, or transaction:

(1) A bank or trust company (acting in an individual or fiduciary capacity);

(2) A savings and loan association;

(3) An insurance company;

(4) A registered investment company;

(5) A regulated commodity pool;

(6) A corporation, partnership, proprietorship, organization, trust, or other business entity with a net worth exceeding $1,000,000 or total assets exceeding $5,000,000 or the obligations of which under the agreement, contract, or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by certain specified entities;

(7) An employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, registered investment advisor, or registered commodity trading advisor;

(8) If otherwise authorized to engage in such transactions by law, any governmental entity (including the United States, any state, or any foreign government) or political subdivision thereof, or any multinational or supranational entity or any instrumentality, agency, or department of any of the above;

(9) A registered securities broker-dealer acting on its own behalf or on behalf of another institutional participant;

(10) A registered futures commission merchant, floor broker, or floor trader acting on its own behalf or on behalf of another institutional participant; and

(11) Other persons that the Commission determines have such financial and other qualifications.

The Senate amendment requires, in new section 4(d) of the Act, that, to the extent any such agreements may be considered to be subject to regulation under the Act, the Commission, following notice and opportunity for a hearing, grant an exemption for swap agreements (effective as of October 23, 1974) from all prohibitions and requirements of the Act, if:

(a) the Commission determines the exemption is consistent with the public interest;

(b) each party to the swap is a person included in one of the categories listed in the definition of "institutional participant";

(c) the creditworthiness of any party having an actual or potential future obligation under the swap agreement would be a material consideration in entering into or determining the terms, including pricing, cost or credit enhancement terms, of the swap agreement; and

(d) the swap agreement is not one of a fungible class of agreements that is standardized as to its material economic terms and is not entered into and traded on or through a multilateral transaction execution facility;

provided that the foregoing shall not be deemed to preclude any arrangement or facility, between or among parties to swap agreements, that provides for netting of payment obligations resulting from swap agreements.

The Senate amendment provides, in new section 4(e) of the Act, for the Commission to maintain authority to conduct investigations to determine compliance with the conditions or requirements of any exemption issued and to take enforcement actions for violations of the Act, or any rules, regulations, or orders caused by failure to comply with such conditions or requirements.

The Conference substitute adopts new section 4(c) of the Act as proposed by the Senate amendment, with an amendment. Under the Conference substitute, in order to promote responsible economic or financial innovation and fair competition, the Commission may, by rule, regulation, or order, after notice and opportunity for hearing (on its own initiative or an application of any person, including any board of trade designated as a contract market for transactions for future delivery under section 5 of the Act), grant an application to exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to section 4(a) of the Commodity Exchange Act, either unconditionally or on stated terms and conditions or for stated periods, either retroactively or prospectively or both, from any of the requirements of the Act (except for section 2(a)(1)(B)) if the Commission determines that such an exemption would be consistent with the public interest.

The Commission is not permitted to issue an exemption to section 2(a)(1)(B) of the Act—the so-called Johnson-Shad jurisdictional accord. By this limitation, the Conferees do not intend to call into question the legality of securities-based swap or other transactions, which occur in the private marketplace at the present time, that do not violate the Accord.

The Conference substitute adopts the Senate provision which prohibits the Commission from granting an exemption from the exchange-trading requirement of the Act unless it determines that the requirement should not be applied and that the exemption would be consistent with the public interest and the purposes of the Commodity Exchange Act.

Under the Conference substitute, new section 4(c)(1) requires that the Commission make a determination, before exempting any agreement, contract, or transaction from any provisions of the Act, that the exemption would be consistent with the public interest. The Conferees intend this public interest test to include the national public interests noted in the Act, the prevention of fraud and the preservation of the financial integrity of markets, as well as the promotion of responsible economic or financial innovation and fair competition.

With respect to exemptions from the exchange-trading requirements of section 4(a), the Conference substitute further requires that the Commission determine that the exemption be consistent with the purposes of this Act. The Conferees intend for this reference to the "purposes of the Act" to underscore their expectation that the Commission will assess the impact of a proposed exemption on the maintenance of the integrity and soundness of markets and market participants.

At the same time, new section 4(c)(1) states that the granting of general exemptive authority is intended to promote responsible economic and financial innovation and fair competition. The Conferees intend that the Commission, in considering fair competition, will implement this provision in a fair and even-handed manner to products and systems sponsored by exchanges and non-exchanges alike. The Conferees expect that, in this process, the Commission will apply consistent standards based on the underlying facts and circumstances of the transactions and markets being considered and may make distinctions between exchanges and other markets, taking into account the particular facts and circumstances involved, consistent with the public interest and the purposes of this Act, where such distinctions are not arbitrary and capricious.

New section 4(c)(2)(B)(i) prohibits the granting of an exemption from the exchange-trading requirement unless the agreement, contract, or transaction will be entered into solely between appropriate persons.

New section 4(c)(2)(B)(ii) requires that the Commission, before granting an exemption to the exchange-trading requirement, make a determination that the agreement, contract, or tranaction in question will not have a material adverse affect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act. In making this determination, the Conferees intend that the Commission will look at the potential impact of the new product on such regulatory concerns as market surveillance, financial integrity of participants, protection of customers, and trade practice enforcement. The Conferees do not intend for this provision to allow an exchange or any other existing market to oppose the exemption of a new product solely on grounds that it may compete with or draw market share away from that existing market.

The Conference substitute includes among those covered by the term "appropriate person" generally those individuals and entities described under the term "institutional participant" in the Senate provision. New section 4(c)(3)(K) provides that the term "appropriate person" shall include persons that the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections.

The list in new section 4(c)(3) of categories of appropriate persons who may enter into agreements, contracts, or transactions exempted by the Commission from the exchange-trading requirement of section 4(a) is intended to be exhaustive—exempted products may not be offered to or traded by persons who do not fall within one of the stated categories. At the same time, the Conferees intend that the Commission, in stating terms or conditions of an exemption for a product under new section 4(c)(1), may in appropriate cases limit the offering or trading of the product to only some—but not all—of the listed categories. Not every instrument will be appropriate for every listed category of participants in every case. Determining whether particular categories of participants are appropriate for particular instruments will be part of the Commission's responsibility to determine that a proposed exemption is consistent with the public interest.

New section 4(c)(3)(K) recognizes that agreements, contracts, or transactions may be conducted with persons who do not qualify under subparagraphs (A) through (J), when the Commission determines that there are adequate financial or other protections in place against fraud or other illegal conduct. This authority is consistent with the Commission's plenary authority with respect to commodity option transactions, including its authority to permit the issuance, offer, sale and trading of any commodity option under the Act that also may be subject to securities, banking or other applicable laws.

The Conference substitute, in new section 4(c)(4), authorizes the Commission to limit the availability to the public of any information received from an applicant that may be regarded as a trade secret or that would, if made public, otherwise result in material competitive harm to the applicant. In this regard, the Conferees recognize that in reviewing exemptive applications for innovative products, the Commission may determine to withhold from public disclosure trade secrets or other information (including information regarding the product) that may cause competitive harm if made public. Such a determination would be consistent with the Commission's current practice regarding confidential information under the Commodity Exchange Act and under the Freedom of Information Act. The Conferees anticipate that the Commission shall make public, subject to applicable laws, any final order issued pursuant to new section 4(c)(1).

The Conference substitute specifically provides (in new section 4(c)(5)) that the Commission may use its general exemptive authority under new section 4(c)(1) with respect to hybrid instruments and swap agreements.

The Conference substitute also provides, in new section 4(d), that in granting an exemption, the Commission retains its authority to conduct investigations in order to determine compliance with the requirements or conditions of the exemption and to take enforcement action for any violation of any provision of the Act or any rule, regulation or order thereunder caused by the failure to comply with or satisfy such conditions and requirements.

Section 502 of the Conference substitute amends section 15 of the Act. Section 15 of the Act currently requires that the Commission take into consideration the public interest to be protected by the antitrust laws and to endeavor to take the least anticompeitive means of achieving the objectives of the Act in issuing any order or adopting any rule or regulation under the Act. The Conference substitute confirms that the Commission's responsibility in this area includes the consideration of any exemption under new section 4(c).

In applying section 15 to exemptive orders, the Conferees expect the Commission to prevent unreasonable restraints of trade or monoplies consistent with the public interests served by the antitrust laws. Commission exemptive actions also should reflect the least anticompetitive means of exempting persons or transactions from the provisions of the Act.

Section 502(c) of the Conference substitute amends section 12(e)(2)(A) of the Act to pro-

vide that any State or local law that prohibits or regulates gaming or the operation of "bucket shops" (other than anti-fraud provisions of general applicability) shall not apply with respect to a transaction or class of transactions that has received or is covered by an exemption granted by the Commission under section 4(c). It thus provides legal certainty under both the Act and state gaming and bucket shop laws for transactions covered by the terms of an exemption.

In granting exemptive authority to the Commission under new section 4(c), the Conference recognize the need to create legal certainty for a number of existing categories of instruments which trade today outside of the forum of a designated contract market. These instruments may contain some features similar to those of regulated exchange-traded products but are sufficiently different in their purpose, function, design, or other characteristics that, as a matter of policy, traditional futures regulation and the limitation of trading to the floor of an exchange may be unnecessary to protect the public interest and may create an inappropriate burden on commerce.

The provision included in the Conference substitute is designed to give the Commission broad flexibility in addressing these products either generically or on an individualized, case-by-case basis. Because of the important public policy concerns that have underlaid the Act for sixty years, the Conferees expect the Commission generally to use this authority sparingly. Trading in off-exchange "derivative" instruments has ballooned over the past decade. The total notional principal amount of swaps alone is currently estimated as approximately $4 trillion. This growth and proliferation has spawned many questions of how best to regulate the new markets. Studies are underway by the General Accounting Office and other public and private parties which will be useful to Congress in considering these larger issues of regulatory policy in coming years.

The goal of providing the Commission with broad exemptive powers is not to prompt a wide-scale deregulation of markets falling within the ambit of the Act. Rather, it is to give the Commission a means of providing certainty and stability to existing and emerging markets so that financial innovation and market development can proceed in an effective and competitive manner. Except as discussed below, the Conferees do not intend for the Commission to use this authority to grant broad exemptions from the Act for instruments or markets before these studies are completed and Congress has ultimately decided the issues raised by them.

In this respect, the Conferees expect and strongly encourage the Commission to use its new exemptive powers promptly upon enactment of this legislation in four areas where significant concerns of legal uncertainty have arisen: (1) hybrids, (2) swaps, (3) forwards, and (4) bank deposits and accounts.

Beyond these particular categories, the Conferees intend for the general exemptive authority included in the substitute to allow the Commission to respond to future developments in the marketplace to avoid disruption and promote responsible economic and financial innovation, with due regard for the continued viability of the marketplace and considerations related to systemic risk in financial markets.

The Conferees emphasize that the decision to replace the structure of the Senate amendment—which contained separate exemption or exclusion provisions for swaps, hybrids, and deposits—with a centralized, broad general exemptive provision in no way detracts from the Conferees' intent that the Commission indeed act and act swiftly with respect to these products. Nor should the fact that new section 4(c)(5) of the Act is stated in permissive rather than mandatory terms be interpreted to diminish the expectation of the Conferees that the Commission will proceed.

*Hybrids.*—New section 4(c)(5)(A) authorizes the Commission to exercise its exemptive authority with respect to classes of hybrid instruments that are predominantly securities or depository instruments, to the extent that such instruments may be considered to be subject to regulation under the Act. As with any exemption issued under this provision the Commission retains the authority to set terms and conditions of this exemption based on the standards in section 4(c) (1) and (2), including consistency of the exemption with the public interest.

*Swaps*

New section 4(c)(5)(B) authorizes the Commission, to the extent that these instruments may be considered to be subject to regulation under the Act, to exercise its exemptive authority to fashion an exemption for swap agreements (effective as of October 23, 1974) that are not part of a fungible class of agreements that are standardized as to their material economic terms. Again, as with any exemption issued under this provision, the Commission retains the authority to set terms and conditions of this exemption based on the standards in section 4(c) (1) and (2), including consistency of the exemption with the public interest. Thus the Commission may impose conditions on this exemption beyond those of lack of fungibility and standardization.

*Forwards*

One court has found transactions in the Brent crude oil market to be futures contracts. See *Transnor (Bermuda) Limited* v. *BP North America Petroleum*, 738 F. Supp. 1472 (1990). In response, the Commission has issued a statutory interpretation to the effect that certain transactions in that market qualify as sales of cash commodities for deferred shipment or delivery, that is, forward contracts, and, as such, are not subject to regulation under the Act.

Many markets of this nature are international in scope; foreign parties are already engaging in such transactions free of restraints imposed by the Act that may create competitive disadvantages for U.S. participants.

Without expressing a view regarding the applicability of the Commission's statutory interpretation, the Conferees encourage the Commission to review this situation and these contracts to determine whether exemptive or other action should be taken.

*Deposits*

The Conferees also encourage and expect the Commission to exercise its exemptive authority with respect to certain bank products such as demand deposits, time deposits, or transaction accounts (as defined in subsections (b)(1), (c)(1), and (e), respectively, of section 204.2 of title 12, Code of Federal Regulations (12 CFR 204.2)) whether indexed or otherwise, to the extent that such instruments may be considered to be subject to regulation under the Act. The Conferees anticipate that this exemption would apply to deposits or accounts offered by: an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act; an insured credit union as defined in section 101 of the Federal Credit Union Act; or a Federal or state branch or agency of a foreign bank as defined in section 1 of the International Banking Act. Again, as with any exemption issued under this provision, the Commission retains the authority to set terms and conditions of this exemption based on the standards in section 4(c) (1) and (2), including consistency of the exemption with the public interest.

The Conferees do not intend that the exercise of exemptive authority by the Commission would require any determination beforehand that the agreement, instrument, or transaction for which an exemption is sought is subject to the Act. Rather, this provision provides flexibility for the Commission to provide legal certainty to novel instruments where the determination as to jurisdiction is not straightforward. Rather than making a finding as to whether a product is or is not a futures contract, the Commission in appropriate cases may proceed directly to issuing an exemption.

In granting the Commission such exemptive authority, the Conferees make no decision concerning whether swaps and hybrids are futures subject to regulation under the Act. If the Commission does not, or has not granted, an exemption to an instrument, this fact alone should not be construed to mean that such instrument is subject to the Act. Finally, the Conferees note that the exemptive authority being provided to the Commission is in respect to the Act only, and that in exempting an instrument from the Act the Commission cannot exempt it from applicable securities and banking laws and regulations.

STUDY OF SWAPS, AND OFF-EXCHANGE DERIVATIVES TRADING

With the intention of providing legal certainty to certain segments of financial markets mentioned above, the Conferees have granted the Commission sufficient authority to allow the trading for products that are contracts for the sale of a commodity for future delivery, notwithstanding the fact that trading of such products is not compatible with one or more of the regulatory restrictions of the Act. In developing this authority, the Conferees have found that it would be useful in the development of legislation relating to markets for derivative financial products to acquire more extensive and specific information in their regard than is currently available.

Therefore, the Conferees direct that the Commission—with the cooperation of and in consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System—conduct a comprehensive study to determine:

(1) the size, scope, activities, and potential risks presented by the markets for swaps and other off-exchange derivative financial products;

(2) the need for additional regulatory controls that should be applicable to the products described in paragraph (1);

(3) how any such regulatory controls could be implemented in a cost-effective manner;

(4) the public policy implications of the decisions in *Krommenhoek* v. *A-Mark Precious Metals Inc.*, 945 F.2nd 309 (9th Cir. 1991) and *Laszlo N. Tauber, M.D.* v. *Salomon Forex Inc., et al.* (E.D. Va., June 1, 1992, Appeal Pending, Case no. 92-1406 (4th Cir.)) is upheld on appeal; and

(5) whether a single Federal regulatory agency should regulate the exchange or off-exchange trading of, and markets for, futures, options, swaps, derivative products, and securities.

The Conferees direct that, not later than one year after the date of enactment of the Futures Trading Practices Act of 1992, the Commission shall submit to Congress a report including:

(1) the determinations made in the study; and

(2) any recommendations of the Commission regarding the regulation of the trading of the studied products and contracts.

*70. Hybrid Instruments—Generally (S 303)*

The House bill has no comparable provision.

The Senate amendment adds a new section 4c(h) to the Act to provide that nothing in the Act will be considered to govern or in any way be applicable to any transaction meeting the following requirements:

(1) to the extent that the instrument has an embedded or otherwise attached commodity option, the instrument derives less than 50 percent of its value at the date of issuance from the value of the commodity option, and

(2) to the extent that an instrument has an embedded or otherwise attached contract of sale of a commodity for future delivery, at the date of issuance it is expected that less than 50 percent of the value gained from and payable on the instrument will be due to movement in the price of the commodity or commodities specified in the instrument or in the terms and conditions of the transaction pursuant to which the instrument was issued.

The new subsection (b) contained in the Senate amendment specifies that it shall not affect any other exclusion or exemption from the Act of any transaction, including exemptions granted by any rule, regulation or order, and that, except as noted above, nothing therein shall affect the jurisdiction granted to the Commission by the Act over any transaction.

The Conference substitute deletes the Senate provision, although the provisions of the Conference substitute giving the Commission general exemptive authority will allow the Commission to grant exemptions with respect to certain hybrid instruments.

*71. Hybrid Instruments—Bank deposits (S 303)*

The House bill has no comparable provision.

The Senate amendment adds a new section 4c(i) to the Act, to provide that nothing in that Act will be considered applicable to any deposit (as defined under the Federal Reserve Act and regulations in effect on the date of enactment) offered by—

(1) an insured depository institution;

(2) an insured credit union; or

(3) a Federal or state branch of a foreign bank.

The Conference substitute deletes the Senate provision, although the provisions of the Conference substitute giving the Commission general exemptive authority will allow the Commission to grant exemptions with respect to certain bank deposits and accounts.

*72. Hybrid Instruments—Loans (S 303)*

The House bill has no comparable provision.

The Senate amendment adds a new section 4c(j) to the Act to provide that nothing in the Act will be considered applicable to any loans made by—

(1) an insured depository institution;

(2) an insured credit union; or

(3) a Federal or state branch of a foreign bank, or to any loan that is a consumer credit transaction subject to the Truth in Lending Act.

The Conference substitute deletes the Senate provision, although section 502 of the Conference substitute giving the Commission general exemptive authority will allow the Commission to grant exemptions with respect to certain bank deposits and accounts.

*73. Index Participations (S 304)*

The House bill has no comparable provision.

The Senate amendment adds a new section 4c(f)(2) to the Act to provide that nothing in the Act will be deemed to govern or in any way be applicable to any contract traded on a national securities exchange whereby any party to the contract acquires any interest in a stock index participation unit approved for trading by the Securities and Exchange Commission by order dated April 11, 1989, or pending such approval on or prior to December 31, 1990.

The Conference substitute deletes the Senate provision.

*74. Registration (S 304)*

The House bill has no comparable provision.

The Senate amendment adds a new section 4c(f)(3) which directs the Commission to utilize its existing authority under the Act to facilitate the registration of any person who is a "person associated with a broker or dealer"; or "associated person of a broker or dealer," as those terms are defined in section 3(a)(18) of the Securities Exchange Act of 1934, or the purposes of marketing stock-index futures (or options thereon) to the public.

The Conference substitute deletes the Senate provision.

From the Committee on Agriculture, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
GLENN ENGLISH,
HARLEY O. STAGGERS, Jr.,
RICHARD H. STALLINGS,
DAVE NAGLE,
BILL SARPALIUS,
TIM JOHNSON,
JERRY HUCKABY,
DAN GLICKMAN,
TIMOTHY J. PENNY,
MIKE ESPY,
JILL L. LONG,
CHARLES W. STENHOLM,
ROBIN TALLON,
TOM COLEMAN,
BOB SMITH,
STEVE GUNDERSON,
LARRY COMBEST,
WAYNE ALLARD,
BILL BARRETT,
JIM NUSSLE,
JOHN A. BOEHNER,
PAT ROBERTS,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 263 and title III of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
FRANK ANNUNZIO,
STEPHEN L. NEAL,
CARROLL HUBBARD, Jr.,
JOHN J. LAFALCE,
MARY ROSE OAKAR,
CHALMERS P. WYLIE,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,

As additional conferees from the Committee on Energy and Commerce, for consideration of section 263 and title III of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
JAMES H. SCHEUER,
MIKE SYNAR,
DENNIS E. ECKART,
JIM SLATTERY,
NORMAN F. LENT,
MATTHEW J. RINALDO,
CARLOS J. MOORHEAD,
DON RITTER,

*Managers on the Part of the House.*

PATRICK LEAHY,
DAVID L. BOREN,
HOWELL HEFLIN,
KENT CONRAD,
RICHARD G. LUGAR,
ROBERT DOLE,
THAD COCHRAN,

*Managers on the Part of the Senate.*

## CONFERENCE REPORT ON H.R. 5482

Mr. FORD of Michigan, submitted the following conference report and statement on the bill (H.R. 5482), to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-973)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5482), to revise and extend the programs of the Rehabilitation Act of 1973, 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 "Rehabilitation Act Amendments of 1992".*

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

*Sec. 1. Short title; table of contents.*
*Sec. 2. References.*

*TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES*

*Subtitle A—Administration*

*Sec. 101. Findings and purpose.*
*Sec. 102. Definitions.*
*Sec. 103. Allotment percentage.*
*Sec. 104. Nonduplication.*
*Sec. 105. Administration of the Act.*
*Sec. 106. Reports.*
*Sec. 107. Evaluation.*
*Sec. 108. Review of applications.*
*Sec. 109. Carryover.*
*Sec. 110. Client assistance information.*
*Sec. 111. Traditionally underserved populations.*

*Subtitle B—Vocational Rehabilitation Services*

*Sec. 121. Policy; authorization of appropriations.*
*Sec. 122. State plans.*
*Sec. 123. Determinations of eligibility and individualized written rehabilitation program.*
*Sec. 124. Scope of vocational rehabilitation services.*
*Sec. 125. Non-Federal share for construction.*
*Sec. 126. State Rehabilitation Advisory Council.*
*Sec. 127. Evaluation.*
*Sec. 128. Monitoring and review.*

Sec. 129. Expenditure of certain amounts.
Sec. 130. Training of employers with respect to Americans with Disabilities Act of 1990.
Sec. 131. Reallotment.
Sec. 132. Payments to States.
Sec. 133. Client assistance program.
Sec. 134. Innovation and expansion grants.
Sec. 135. Study of needs of American Indians with handicaps.
Sec. 136. Review of data collection system.
Sec. 137. Exchange of data.
Sec. 138. Effective date.

TITLE II—RESEARCH

Sec. 201. Declaration of purpose.
Sec. 202. Authorization of appropriations.
Sec. 203. National Institute on Disability and Rehabilitation Research.
Sec. 204. Interagency committee.
Sec. 205. Research.
Sec. 206. Rehabilitation Research Advisory Council.

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

Sec. 301. Declaration of purpose; organization.
Sec. 302. Training.
Sec. 303. Community rehabilitation programs for individuals with disabilities.
Sec. 304. Loan guarantees.
Sec. 305. Comprehensive rehabilitation centers.
Sec. 306. General grant and contract requirements.
Sec. 307. Authorization of appropriations for special projects and supplementary services.
Sec. 308. Special demonstration programs.
Sec. 309. Migratory workers.
Sec. 310. Special recreational programs.

TITLE IV—NATIONAL COUNCIL ON DISABILITY

Sec. 401. Establishment of National Council on Disability.
Sec. 402. Duties of National Council.
Sec. 403. Compensation of National Council members.
Sec. 404. Staff of National Council.
Sec. 405. Administrative powers of National Council.
Sec. 406. Authorization of appropriations.

TITLE V—RIGHTS AND ADVOCACY

Sec. 501. Rights and advocacy.
Sec. 502. Effect on existing law.
Sec. 503. Employment of individuals with disabilities.
Sec. 504. References to the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Employment under Federal contracts.
Sec. 506. Nondiscrimination under Federal grants and programs.
Sec. 507. Secretarial responsibilities.
Sec. 508. Interagency Disability Coordinating Council.
Sec. 509. Electronic and information technology accessibility guidelines.
Sec. 510. Protection and advocacy of individual rights.

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

Subtitle A—Community Service Employment Pilot Program for Individuals With Disabilities

Sec. 601. Pilot program.
Sec. 602. Treatment of personal assistance services costs.
Sec. 603. Definitions.
Sec. 604. Authorization of appropriations.

Subtitle B—Projects With Industry

Sec. 611. Projects With Industry.
Sec. 612. Business opportunities for individuals with disabilities.
Sec. 613. Authorization of appropriations.

Subtitle C—Supported Employment Services for Individuals With Severe Disabilities

Sec. 621. Supported employment.

TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

Sec. 701. Services and centers.
Sec. 702. Effective date.
Sec. 703. Independent living services for older individuals who are blind.

TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

Sec. 801. Special demonstrations and training projects.

TITLE IX—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

Sec. 901. Congressional findings.
Sec. 902. Continued operation of Center.
Sec. 903. Audit, monitoring, and evaluation.
Sec. 904. Authorization of appropriations.
Sec. 905. Definitions.
Sec. 906. Construction of Act, effect on agreements.
Sec. 907. Establishment of a program.
Sec. 908. Technical and conforming amendments.

Subtitle B—Other Programs

Sec. 911. Committee for Purchase From People Who Are Blind or Severely Disabled.
Sec. 912. Individuals With Disabilities Education Act.
Sec. 913. Technology-Related Assistance for Individuals With Disabilities Act of 1988.
Sec. 914. President's Committee on Employment of People With Disabilities.

**SEC. 2. REFERENCES.**

*Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).*

## TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

### Subtitle A—Administration

**SEC. 101. FINDINGS AND PURPOSE.**

*Section 2 (29 U.S.C. 701) is amended to read as follows:*

"FINDINGS; PURPOSE; POLICY

"SEC. 2. (a) FINDINGS.—Congress finds that—

"(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

"(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

"(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

"(A) live independently;

"(B) enjoy self-determination;

"(C) make choices;

"(D) contribute to society;

"(E) pursue meaningful careers; and

"(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

"(4) increased employment of individuals with disabilities can be achieved through the provision of individualized training, independent living services, educational and support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

"(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

"(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

"(A) make informed choices and decisions; and

"(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

"(b) PURPOSE.—The purposes of this Act are—

"(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

"(A) comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

"(B) independent living centers and services;

"(C) research;

"(D) training;

"(E) demonstration projects; and

"(F) the guarantee of equal opportunity; and

"(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with severe disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

"(3) inclusion, integration, and full participation of the individuals;

"(4) support for the involvement of a parent, a family member, a guardian, an advocate, or an authorized representative if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systemic advocacy and community involvement.".

**SEC. 102. DEFINITIONS.**

*(a) DESIGNATED STATE AGENCY.—Section 7(3) (29 U.S.C. 706(3)) is amended—*

*(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and*

*(2) by striking "(3)" and inserting the following:*

*"(3)(A) The term 'designated State agency' means an agency designated under section 101(a)(1)(A).*

*"(B)".*

*(b) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—Section 7(4) (29 U.S.C. 706(4)) is amended—*

*(1) by striking "rehabilitation facility" each place the term appears and inserting "community rehabilitation program";*

*(2) by striking "means" and inserting "includes"; and*

*(3) by striking "such facilities)" and inserting "facilities for community rehabilitation programs)".*

*(c) EMPLOYMENT OUTCOME.—Section 7(6) (29 U.S.C. 706(6)) is amended to read as follows:*

*"(6) The term 'employment outcome' means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this Act.".*

(d) DRUG.—Section 7 (29 U.S.C. 706) is amended—

(1) by striking paragraph (5);

(2) by redesignating paragraphs (4) and (6) as paragraphs (6) and (5), respectively;

(3) by inserting paragraph (6) (as so redesignated by paragraph (2) of this subsection) before paragraph (7);

(4) by redesignating paragraph (22) as paragraph (4); and

(5) by inserting paragraph (4) (as so redesignated by paragraph (4) of this subsection) after paragraph (3).

(e) FEDERAL SHARE.—Section 7(7) (29 U.S.C. 706(7)) is amended—

(1) in subparagraph (A), by striking "80 percent" and inserting "78.7 percent";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(4) in subparagraph (B) (as redesignated by paragraph (3) of this subsection), by striking "section 301(b)(3)" each place the term appears and inserting "section 111(a)(3)".

(f) INDIVIDUAL WITH DISABILITIES.—Section 7(8) (29 U.S.C. 706(8)) is amended—

(1) in subparagraph (A)—

(A) by striking "handicaps" and inserting "a disability";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "handicap" and inserting "impediment"; and

(C) in clause (ii)—

(i) by striking "reasonably be expected to";

(ii) by striking "employability" and inserting "an employment outcome"; and

(iii) by striking "titles I and III" and inserting "titles I, II, III, VI, and VIII";

(2) in subparagraph (B)—

(A) by striking "(C) and (D)" and inserting "(C), (D), (E), and (F)";

(B) by striking "handicaps" and inserting "a disability"; and

(C) by striking "titles IV and V" and inserting "sections 2, 14, and 15, and titles IV and V";

(3) in subparagraph (C)—

(A) in clause (i), by striking "handicaps" and inserting "a disability";

(B) in clause (ii), by striking "handicaps" and inserting "a disability";

(C) in clause (iv)—

(i) by striking "handicapped student" and inserting "student who is an individual with a disability and"; and

(ii) by striking "nonhandicapped students" and inserting "students who are not individuals with disabilities"; and

(D) in clause (v) by striking "handicaps" and inserting "a disability"; and

(4) by adding at the end the following:

"(E) For the purposes of sections 501, 503 and 504—

"(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

"(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

"(F) For the purposes of sections 501, 503, and 504, the term 'individual with a disability' does not include an individual on the basis of—

"(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

"(ii) compulsive gambling, kleptomania, or pyromania; or

"(iii) psychoactive substance use disorders resulting from current illegal use of drugs.".

(g) NONPROFIT.—Section 7(10) (29 U.S.C. 706(10)) is amended by striking "with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by" and inserting "with respect to a community rehabilitation program, means a community rehabilitation program carried out by".

(h) PERSONAL ASSISTANCE SERVICES.—Section 7 (29 U.S.C. 706) is amended—

(1) by striking paragraph (13);

(2) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(3) by inserting after paragraph (10) the following:

"(11) The term 'personal assistance services' means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.".

(i) REHABILITATION TECHNOLOGY.—Section 7(13) (29 U.S.C. 706(13)) (as so redesignated by subsection (h)(2)) is amended—

(1) by striking "rehabilitation engineering" and inserting "rehabilitation technology"; and

(2) by adding at the end the following: "The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.".

(j) INDIVIDUAL WITH A SEVERE DISABILITY.—Section 7(15) (29 U.S.C. 706(15)) is amended—

(1) in subparagraph (A)—

(A) by striking "subparagraph (B)" and inserting "subparagraph (B) or (C)";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "employability" and inserting "an employment outcome"; and

(C) in clause (iii), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) For purposes of title VII, the term 'individual with a severe disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

"(C) For purposes of section 13 and title II, the term 'individual with a severe disability' includes an individual described in subparagraph (A) or (B).".

(k) STATE.—Section 7(16) (29 U.S.C. 706(16)) is amended to read as follows:

"(16) The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).".

(l) SUPPORTED EMPLOYMENT.—Section 7(18) (29 U.S.C. 706(18)) is amended to read as follows:

"(18)(A) The term 'supported employment' means competitive work in integrated work settings for individuals with the most severe disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.".

(m) PUBLIC OR NONPROFIT.—Section 7(19) (29 U.S.C. 706(19)) is amended to read as follows:

"(19) The term 'public or nonprofit', with respect to an agency or organization, includes an Indian tribe.".

(n) ADDITIONAL DEFINITIONS.—Section 7 (29 U.S.C. 706) (as amended by subsection (d)(4)) is amended by adding at the end the following new paragraphs:

"(22) The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

"(A)(i) a review of existing data—

"(I) to determine whether an individual is eligible for vocational rehabilitation services; and

"(II) to assign the priority described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

"(ii) to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during such assessment);

"(B) to the extent additional data is necessary, a comprehensive assessment (including the administration of the assessment) of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment—

"(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program of the individual;

"(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

"(I) existing information; and

"(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

"(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

"(iv) may include an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

"(C)(i) referral;

"(ii) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and

"(iii)(I) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited pur-

pose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and

"(II) an assessment at least once in every 90-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (I) may be made.

"(23) The term 'assistive technology device' has the meaning given such term in section 3(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(1)), except that the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (8)(A).

"(24) The term 'assistive technology service' has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section—

"(A) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (8)(A); and

"(B) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.

"(25) The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological, and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).

"(26) The term 'disability' means—

"(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

"(B) for purposes of sections 2, 14, and 15, and titles II, III, IV, V, and VIII, a physical or mental impairment that substantially limits one or more major life activities.

"(27) The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(28)(A) The term 'impartial hearing officer' means an individual—

"(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

"(ii) who is not a member of the State Rehabilitation Advisory Council described in section 105;

"(iii) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

"(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

"(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

"(B) An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

"(29) The term 'independent living core services' means—

"(A) information and referral services;

"(B) independent living skills training;

"(C) peer counseling (including cross-disability peer counseling); and

"(D) individual and systems advocacy.

"(30) The term 'independent living services' includes—

"(A) independent living core services; and

"(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

"(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

"(iii) rehabilitation technology;

"(iv) mobility training;

"(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

"(vi) personal assistance services, including attendant care and the training of personnel providing such services;

"(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

"(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

"(ix) education and training necessary for living in a community and participating in community activities;

"(x) supported living;

"(xi) transportation, including referral and assistance for such transportation;

"(xii) physical rehabilitation;

"(xiii) therapeutic treatment;

"(xiv) provision of needed prostheses and other appliances and devices;

"(xv) individual and group social and recreational services;

"(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

"(xvii) services for children;

"(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

"(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

"(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

"(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

"(31)(A) The term 'individuals with disabilities' means more than one individual with a disability.

"(B) The term 'individuals with severe disabilities' means more than one individual with a severe disability.

"(C) The term 'individuals with the most severe disabilities' means more than one individual with the most severe disability.

"(32) The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(33) The term 'ongoing support services' means services—

"(A) provided to individuals with the most severe disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (22)(B);

"(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

"(iii) job development and placement;

"(iv) social skills training;

"(v) regular observation or supervision of the individual;

"(vi) followup services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

"(vii) facilitation of natural supports at the worksite;

"(viii) any other service identified in section 103; or

"(ix) a service similar to another service described in this subparagraph.

"(34) The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way to assist an eligible individual in entering or maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program.

"(35) The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(o) TECHNICAL AMENDMENT.—Section 101 (29 U.S.C. 721) is amended—

(1) by striking "clause" each place the term appears and inserting "paragraph";

(2) by striking "subclause" each place the term appears and inserting "subparagraph"; and

(3) by striking "clauses" and inserting "paragraphs".

(p) CONFORMING AMENDMENTS; INDIVIDUALS WITH DISABILITIES.—

(1) The title of the Act (29 U.S.C. 701 et seq.) is amended—

(A) by striking "those with the most severe handicaps" and inserting "individuals with the most severe disabilities"; and

(B) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(2) The table of contents relating to the Act is amended—

(A) by striking the item relating to section 501 and inserting the following:

"Sec. 501. Employment of individuals with disabilities.";

(B) by striking the item relating to the title heading for title VI and inserting the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES";

and

(C) by striking the item relating to the part heading for part A of title VI and inserting the following:

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR INDIVIDUALS WITH DISABILITIES".

(3) Section 7 (29 U.S.C. 706) is amended—

(A) in paragraph (13) (as so redesignated by subsection (h)(2)) by striking "handicaps" and inserting "disabilities";

(B) in paragraph (15)(A)—

(i) by striking "severe handicaps" and inserting "a severe disability"; and

(ii) by striking "handicaps (as defined in paragraph (8))" and inserting "a disability"; and

(C) in paragraph (17) by striking "handicaps" and inserting "disabilities".

(4) The last sentence of section 13 (29 U.S.C. 712) is amended by striking "handicaps" and inserting "disabilities".

(5) Section 14(a) (29 U.S.C. 713(a)) is amended by striking "handicaps" and inserting "disabilities".

(6) Section 15 (29 U.S.C. 714) is amended—

(A) in subsections (a) and (b) by striking "handicaps" each place such term appears and inserting "disabilities";

(B) in subsection (a)(2) by striking "handicapping conditions" and inserting "disabilities"; and

(C) in subsection (c) by striking "the Handicapped" and inserting "Individuals with Disabilities".

(7) Section 101(a) (29 U.S.C. 721(a)) is amended—

(A) in paragraph (1)—

(i) by striking "handicaps" each place such term appears and inserting "disabilities";

(ii) in subparagraph (A)(i)—

(I) by striking "the blind" each place such term appears and inserting "individuals who are blind"; and

(II) by striking "the adult blind" and inserting "adults who are blind"; and

(iii) in subparagraph (B), by striking "the blind" and inserting "individuals who are blind";

(B) in paragraph (2)(B) by striking "the blind" and inserting "individuals who are blind";

(C) in paragraphs (2), (4), (5), (6), (10), (11), (12), (21), and in the matter preceding paragraph (16), by striking "handicaps" each place such term appears and inserting "disabilities";

(D) in paragraph (9) by striking "handicaps" and inserting "a disability";

(E) in paragraph (13)(B) by striking "with handicaps whose handicapping conditions arises from a disability sustained" and inserting "with a disability whose disability was sustained";

(F) in paragraph (20)—

(i) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(ii) by striking "individuals with handicaps" and inserting "individuals with disabilities"; and

(G) in paragraph (22)—

(i) by striking "the deaf" and inserting "individuals who are deaf"; and

(ii) by striking "handicaps" and inserting "disabilities".

(8) Subsections (c) and (d) of section 102 (29 U.S.C. 722 (c) and (d)) are amended by striking "handicaps" and inserting "a disability".

(9) Section 103 (29 U.S.C. 723) is amended—

(A) in the matter preceding paragraph (1) in subsection (a), and in subsection (b)(2), by striking "handicaps" and inserting "a disability";

(B) except as provided in subparagraph (A), by striking "handicaps" each place such term appears and inserting "disabilities";

(C) in subsection (a)—

(i) in subparagraph (E) of paragraph (4), by striking "suffering from" and inserting "with";

(ii) in paragraph (6), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iii) in paragraph (8), by striking "the blind" and inserting "individuals who are blind"; and

(D) in subsection (b)(4)—

(i) by striking "the blind" and inserting "individuals who are blind"; and

(ii) by striking "the deaf" and inserting "individuals who are deaf".

(10) Section 112 (29 U.S.C. 732) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(11) Section 130 (29 U.S.C. 750) is amended—

(A) in subsections (a) and (b)(1)(B) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(B) in subsection (b)(1)(B) by striking "individuals with handicaps" and inserting "individuals with disabilities".

(12) Section 202 (29 U.S.C. 761a) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (c)(1) by striking "the Handicapped" and inserting "Disability".

(13) Subsections (b) and (c) of section 203 (29 U.S.C. 761b (b) and (c)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(14) Section 204 (29 U.S.C. 762) is amended—

(A) in subsection (b)—

(i) in paragraph (4), by striking "individuals suffering from" and inserting "individuals with";

(ii) in paragraph (8)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities";

(iii) in paragraph (10), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iv) in paragraph (11)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "children with severe handicaps" each place such term appears and inserting "children who are individuals with severe disabilities"; and

(B) except as provided in subparagraph (A), by striking "handicaps" each place such term appears and inserting "disabilities".

(15) Section 300 (29 U.S.C. 770) is amended—

(A) in paragraph (2) by striking "handicaps" and inserting "disabilities"; and

(B) in paragraph (3)—

(i) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities";

(ii) by striking "older blind individuals, and deaf individuals" and inserting "older individuals who are blind, and individuals who are deaf";

(iii) by striking "workers with handicaps" and inserting "workers who are individuals with disabilities"; and

(iv) by striking "farmworkers with handicaps" and inserting "farmworkers who are individuals with disabilities".

(16) Section 302 (29 U.S.C. 772) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) in subsections (b) and (c) by striking "handicaps" each place such term appears and inserting "disabilities".

(17) Section 303(a) (29 U.S.C. 773(a)) is amended by striking "handicaps" and inserting "disabilities".

(18) Section 304 (29 U.S.C. 774) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (b)(2)(B), by striking "handicap" and inserting "disability".

(19) Section 305(a) (29 U.S.C. 775(a)) is amended—

(A) in paragraph (1), by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in paragraph (2) by striking "the deaf" and inserting "individuals who are deaf".

(20) Subsections (f) and (h) of section 306 (29 U.S.C. 776 (f) and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(21) Section 311 (29 U.S.C. 777a) is amended—

(A) in subsection (a), by striking "handicaps" each place such term appears and inserting "disabilities";

(B) in subsection (c)(1), by striking "with handicaps" and inserting "who are individuals with disabilities";

(C) in subsection (d)(3), by striking "handicaps" and inserting "disabilities"; and

(D) in subsection (e)—

(i) in paragraph (1), by striking "with severe handicaps" and inserting "who are individuals with severe disabilities"; and

(ii) in paragraph (4)(B), by striking "youths with severe handicaps and youths with mild handicaps" and inserting "youths who are individuals with severe disabilities and other youths with disabilities".

(22) Section 312 (29 U.S.C. 777b) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(23) Section 314 (29 U.S.C. 777d) is amended—

(A) in the section heading, by striking "THE BLIND" and inserting "INDIVIDUALS WHO ARE BLIND";

(B) in subsection (a)(1), by striking "blind persons" and inserting "individuals who are blind and";

(C) in subsection (a)(2)—

(i) by striking "available to blind persons" and inserting "available to individuals who are blind";

(ii) by striking "needs of blind persons" and inserting "needs of such individuals"; and

(iii) by striking "to assist blind persons" and inserting "to assist such individuals"; and

(D) in paragraphs (1), (2), (5), and (6) of subsection (c), by striking "blind persons" and inserting "individuals who are blind".

(24) Section 315 (29 U.S.C. 777e) is amended—

(A) in the section heading, by striking "THE DEAF" and inserting "INDIVIDUALS WHO ARE DEAF";

(B) in subsection (a), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf";

(C) in subsection (b)(1), by striking "to the maximum number of deaf individuals feasible" and inserting "to the maximum feasible number of individuals who are deaf";

(D) in subsection (c), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf"; and

(E) in subsection (d), by striking "deaf individuals" and inserting "individuals who are deaf and".

(25) Section 316(a)(1) (29 U.S.C. 777f(a)(1)) is amended—

(A) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(B) by striking "peers without handicaps" and inserting "peers who are not individuals with disabilities".

(26) Section 400(a) (29 U.S.C. 780(a)) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(27) Section 401(a) (29 U.S.C. 781(a)) is amended—

(A) in paragraph (4), by striking "individuals with handicaps and" each place such term appears; and

(B) in paragraphs (5), (6), and (7), by striking "handicaps" each place such term appears and inserting "disabilities".

(28) Section 403(a)(1) (29 U.S.C. 783(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(29) Section 501 (29 U.S.C. 791) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES";

(B) in subsection (a), by striking "Handicapped Employees" and inserting "Employees who are Individuals with Disabilities";

(C) in subsections (a), (b), (c), (d), and (f), by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(D) in subsection (b), by striking "employees with handicaps" and inserting "employees who are individuals with disabilities".

(30) Subsections (a), (c), (g), and (h) of section 502 (29 U.S.C. 792 (a), (c), (g), and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(31) Section 503 (29 U.S.C. 793) is amended—

(A) in subsection (a), by striking "handicaps as defined in section 7(8)" and inserting "disabilities"; and

(B) in subsection (b)—

(i) by striking "individual with handicaps" and inserting "individual with a disability"; and

(ii) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(32) Section 504 (29 U.S.C. 794) is amended in subsection (a)—

(A) by striking "handicaps" and inserting "a disability"; and

(B) by striking "handicap" and inserting "disability".

(33) Title VI is amended in the title heading by striking "HANDICAPS" and inserting "DISABILITIES".

(34) Section 601 (29 U.S.C. 701 note) is amended by striking "Handicaps" and inserting "Disabilities".

(35) Part A of title VI is amended in the part heading, by striking "HANDICAPS" and inserting "DISABILITIES".

(36) Subsections (a) and (b) of section 611 (29 U.S.C. 795 (a) and (b)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(37) Section 615(a)(1) (29 U.S.C. 795d(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(38) Section 616(2) (29 U.S.C. 795e(2)) is amended, by striking "handicaps" and inserting "disabilities".

(39) Section 622 (29 U.S.C. 795h) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) by striking "handicaps" and inserting "disabilities".

**SEC. 103. ALLOTMENT PERCENTAGE.**

Section 8(a)(1) (29 U.S.C. 707(a)(1)) is amended—

(1) by striking "The" and inserting "For purposes of section 110, the"; and

(2) by striking "and the Trust Territory of the Pacific Islands" and inserting "and the Republic of Palau (until the Compact of Free Association with Palau takes effect)".

**SEC. 104. NONDUPLICATION.**

The second sentence of section 10 (29 U.S.C. 709) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

**SEC. 105. ADMINISTRATION OF THE ACT.**

(a) TRAINING.—Section 12(a)(2) (29 U.S.C. 711(a)(2)) is amended by inserting before the semicolon the following: ", including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches)".

(b) ISSUANCE OF REGULATIONS.—Section 12 (29 U.S.C. 711) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following:

"(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

"(e)(1) Not later than 120 days after the date of the enactment of the Rehabilitation Act Amendments of 1992, the Secretary shall receive public comment and promulgate regulations establishing criteria pertaining to the selection of vocational rehabilitation services, and of vocational rehabilitation services providers, by an individual with a disability, consistent with the individualized written rehabilitation program of the individual under section 102.

"(2) Regulations under paragraph (1) shall include the following:

"(A) Procedures that States must adopt to ensure that the services provided under this Act are of sufficient scope and quality, that the costs of such services and the length of time such services are provided are reasonable, and that such services are available in a timely manner.

"(B) Procedures that prevent fraud, waste, and abuse.

"(C) Procedures to assure that services are provided in the most integrated settings.

"(D) Procedures to assure that rehabilitation providers comply with State guarantees, such as—

"(i) affirmative action procedures with respect to the employment of individuals with disabilities;

"(ii) standards governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitation services; and

"(iii) minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client.

"(E) Standards to be adhered to by providers to help ensure the integrity of services.

"(F) Guidelines for assisting individuals with disabilities and for providing information about available vocational rehabilitation service providers, especially for assisting—

"(i) individuals with cognitive and other disabilities who, due to the nature of the disability, require support and assistance in fully implementing the selection and procurement of services; and

"(ii) the parents, family members, guardians, advocates, or authorized representatives of the individuals.".

**SEC. 106. REPORTS.**

The fourth sentence of section 13 (29 U.S.C. 712) is amended by inserting "including types of rehabilitation technology services provided," after "types of services provided,".

**SEC. 107. EVALUATION.**

Section 14 (29 U.S.C. 713) is amended—

(1)(A) by striking "Commissioner" the first place such term appears and inserting "Secretary, in consultation with the Commissioner,"; and

(B) except as provided in subparagraph (A), by striking "Commissioner" each place such term appears and inserting "Secretary";

(2) in the third sentence of subsection (a)—

(A) by striking "program and" and inserting "program,";

(B) by striking "and the characteristics" and inserting ", the characteristics"; and

(C) by inserting before the period ", and the employment outcomes to be attained";

(3) in subsection (b) by striking "shall," and all that follows through "obtain" and inserting "shall obtain"; and

(4)(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following subsection:

"(f)(1) To assess the linkages between vocational rehabilitation services and economic and non-economic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

"(2) The study shall address factors related to attrition and completion of the program through

which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

"(3) The study shall be planned to cover the period beginning on the application of the individuals for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services.".

**SEC. 108. REVIEW OF APPLICATIONS.**

(a) TRANSFERS.—Section 16(b) (29 U.S.C. 715(b)) is amended by striking "one-half of".

(b) COMPENSATION.—Section 18 (29 U.S.C. 717) is amended by striking "the rate provided for grade GS–18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

**SEC. 109. CARRYOVER.**

(a) IN GENERAL.—The Act is amended by inserting after section 18 (29 U.S.C. 717) the following new section:

**"SEC. 19. CARRYOVER.**

"(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any grant program under part B or C of title I, section 509, part C of title VI, or part B or C of chapter 1 of title VII, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

"(b) NON-FEDERAL SHARE.—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 18 the following:

"Sec. 19. Carryover.".

**SEC. 110. CLIENT ASSISTANCE INFORMATION.**

(a) IN GENERAL.—The Act is amended by inserting after section 19 (as added by section 109(a)) the following new section:

**"SEC. 20. CLIENT ASSISTANCE INFORMATION.**

"All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 19 (as added by section 109(b)) the following:

"Sec. 20. Client assistance information.".

**SEC. 111. TRADITIONALLY UNDERSERVED POPULATIONS.**

(a) IN GENERAL.—The Act is amended by inserting after section 20 (as added by section 110(a)) the following section:

**"SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS.**

"(a) FINDINGS.—With respect to the programs authorized in titles II through VIII, the Congress finds as follows:

"(1) RACIAL PROFILE.—The racial profile of America is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

"(2) RATE OF DISABILITY.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be severely disabled.

"(3) INEQUITABLE TREATMENT.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

"(4) RECRUITMENT.—Recruitment efforts within vocational rehabilitation at the level of preservice training, continuing education, and inservice training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

"(b) OUTREACH TO MINORITIES.—

"(1) POLICY.—The Commissioner shall develop a policy to mobilize the resources of the Nation to prepare minorities for careers in vocational rehabilitation, independent living, and related services.

"(2) FOCUS.—This policy shall focus on—

"(A) the recruitment of minorities into the field of vocational rehabilitation counseling and related disciplines; and

"(B) financially assisting Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority enrollment is at least 50 percent to prepare students for vocational rehabilitation and related service careers.

"(3) PLAN.—

"(A) DEVELOPMENT.—The Commissioner shall develop a plan to provide outreach services and other related activities (such as cooperative efforts) to the entities described in subparagraph (B) in order to enhance the capacity and increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under titles I through VIII.

"(B) ENTITIES.—The entities referred to in subparagraph (A) are—

"(i) Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority student enrollment is at least 50 percent;

"(ii) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

"(iii) underrepresented populations.

"(C) FUNDING.—For the purpose of implementing the plan required in subparagraph (A), the Commissioner shall, for each of the fiscal years 1993 through 1997, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out programs authorized in titles II through VIII of this Act, except programs authorized under title IV or V.

"(3) EFFORT.—The Commissioner shall exercise the utmost authority, resourcefulness, and diligence to meet the requirements of this section.

"(4) REPORT.—

"(A) IN GENERAL.—Not later than January 31 of each year, starting with fiscal year 1994, the Commissioner shall prepare and submit to Congress a final report on the progress toward meeting the goals of this section during the preceding fiscal year.

"(B) CONTENTS.—The report shall include—

"(i) a full explanation of any progress toward meeting the goals of this section; and

"(ii) a plan to meet the goals, if necessary.

"(5) DEMONSTRATION.—In awarding grants, contracts, or cooperative agreements under titles I, II, III, VI, VII, and VIII, and section 509, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 20 (as added by section 110(b)) the following item:

"Sec. 21. Traditionally underserved populations.".

***Subtitle B—Vocational Rehabilitation Services***

**SEC. 121. POLICY; AUTHORIZATION OF APPROPRIATIONS.**

(a) FINDINGS; PURPOSE; POLICY.—Section 100 (29 U.S.C. 720) is amended—

(1) in the section heading, by striking "PURPOSE" and inserting "POLICY"; and

(2) by striking subsection (a) and inserting the following:

"(a)(1) Congress finds that—

"(A) work—

"(i) is a valued activity, both for individuals and society; and

"(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America;

"(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

"(C) individuals with disabilities, including individuals with the most severe disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

"(D) reasons for the significant number of individuals with disabilities not working, or working at a level not commensurate with their abilities and capabilities, include—

"(i) discrimination;

"(ii) lack of accessible and available transportation;

"(iii) fear of losing health coverage under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing existing private health insurance; and

"(iv) lack of education, training, and supports to meet job qualification standards necessary to enter or retain or advance in employment;

"(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities; and

"(F) the provision of vocational rehabilitation services can enable individuals with disabilities, including individuals with the most severe disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities.

"(2) The purpose of this title is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational re-

habilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment.

"(3) It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

"(A) Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

"(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

"(C) Individuals with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational rehabilitation services they receive.

"(D) Families and natural supports can play an important role in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.

"(E) Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment goals and objectives of an individual.

"(F) Individuals with disabilities and their advocates are full partners in the vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

"(G) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.".

(b) REAUTHORIZATION.—Section 100 (29 U.S.C. 720) is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) For the purpose of making grants to States under part B (other than grants under section 112) to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1997, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this subsection for the immediately preceding fiscal year, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.

"(2) There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 1993 through 1997.";

(2) in subparagraphs (A) and (B) of subsection (c)(2), by striking "authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be" each place the term appears and inserting "to be appropriated under subsection (b) for the subsequent fiscal year shall be at least the amount"; and

(3) in subsection (d)(1)(B)—

(A) by striking "1992" the first place the term appears and inserting "1997"; and

(B) by striking "or the amount authorized to be appropriated for such program for fiscal year 1992, whichever is higher,".

(c) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 100 and inserting the following:

"Sec. 100. Declaration of policy; authorization of appropriations.".

**SEC. 122. STATE PLANS.**

(a) PERIOD.—The first sentence of section 101(a) (29 U.S.C. 721(a)) is amended by striking "for a three-year period" and all that follows and inserting the following: "for a 3-year period, or shall submit the plan on such date, and at such regular intervals, as the Secretary may determine to be appropriate to coincide with the intervals at which the State submits State plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.). In order to be eligible to participate in programs under this title, a State, upon the request of the Commissioner, shall make such annual revisions in the plan as may be necessary.".

(b) STATE AGENCY.—Section 101(a)(1)(A) (29 U.S.C. 721(a)(1)(A)) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by inserting before the semicolon at the end the following: ", and (iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa".

(c) PLANS; POLICIES; METHODS.—Section 101(a)(5) (29 U.S.C. 721(a)(5)) is amended—

(1) in subparagraph (A)—

(A) by striking "existing rehabilitation facilities to the maximum extent feasible;" and inserting "community rehabilitation programs to the maximum extent feasible, an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services,"; and

(B) in clause (ii), by inserting before "and shall be consistent" the following: "in accordance with criteria established by the State,";

(2) in subparagraph (B), by inserting before the semicolon the following: ", including the use of funds under part C of title VI to supplement funds under part B of this title to pay for the cost of services leading to supported employment"; and

(3) by striking subparagraph (C) and inserting the following:

"(C) describe—

"(i) how a broad range of rehabilitation technology services will be provided at each stage of the rehabilitation process;

"(ii) how a broad range of such rehabilitation technology services will be provided on a statewide basis; and

"(iii) the training that will be provided to vocational rehabilitation counselors, client assistance personnel, and other related services personnel;".

(d) PROGRAM COMPLIANCE.—Section 101(a)(6)(B) (29 U.S.C. 721(a)(6)(B)) is amended by inserting before the semicolon at the end the following: ", with section 504 of this Act, and with the Americans with Disabilities Act of 1990".

(e) PERSONNEL.—Section 101(a)(7) (29 U.S.C. 721(a)(7)) is amended to read as follows:

"(7)(A) include a description (consistent with the purposes of this Act) of a comprehensive system of personnel development, which shall include—

"(i) a description of the procedures and activities the State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit, including the development and maintenance of a system for determining, on an annual basis—

"(I) the number and type of personnel that are employed by the State agency in the provision of vocational rehabilitation services, including ratios of counselors to clients; and

"(II) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in 5 years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the field, and other relevant factors;

"(ii) where appropriate, a description of the manner in which activities will be undertaken through this section to coordinate the system of personnel development with personnel development under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(iii) a description of the development and maintenance of a system of determining, on an annual basis, information on the institutions of higher education within the State that are preparing rehabilitation professionals, including—

"(I) the numbers of students enrolled in such programs; and

"(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year;

"(iv) a description of the development, updating, and implementation of a plan that—

"(I) will address the current and projected vocational rehabilitation services personnel training needs for the designated State unit; and

"(II) provides for the coordination and facilitation of efforts between the designated State unit and institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) and professional associations to recruit, prepare and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities; and

"(v) a description of the procedures and activities the State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

"(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology; and

"(II) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources, including procedures for providing training regarding the amendments to the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1992;

"(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel, including professionals and paraprofessionals, needed within the State agency to carry out this part are appropriately and adequately prepared and trained, including—

"(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

"(ii) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel within the designated State unit that meet appropriate professional requirements in the State; and

"(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client;".

(f) AVAILABILITY OF COMPARABLE SERVICES AND BENEFITS.—Section 101(a)(8) (29 U.S.C. 721(a)(8)) is amended by striking "except that" and all that follows and inserting "except that such a determination shall not be required—

"(A) if the determination would delay the provision of such services to any individual at extreme medical risk; or

"(B) prior to the provision of such services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits;".

(g) USE OF EXISTING INFORMATION.—Section 101(a)(9) (29 U.S.C. 721(a)(9)) is amended—

(1) by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively;

(2) by striking "(9) provide that" and inserting "(9) provide that—

"(A) to the maximum extent appropriate, and consistent with the requirements of this Act, existing information available from other programs and providers (particularly information used by education officials and the Social Security Administration) and information that can be provided by the individual with a disability or the family of the individual shall be used for purposes of determining eligibility for vocational rehabilitation services and for choosing rehabilitation goals, objectives, and services;";

(3) in subparagraphs (B), (C), and (D) (as so redesignated by paragraph (1) of this subsection), by indenting the subparagraphs to the same measure as subparagraph (A); and

(4) in subparagraphs (B) and (C) (as so redesignated), by striking the comma at the end and inserting a semicolon.

(h) REPORTS.—Section 101(a)(10) (29 U.S.C. 721(a)(10)) is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) in subparagraph (A) (as so designated by paragraph (1) of this subsection), by adding "and" after the semicolon at the end; and

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

"(B) provide that reports under subparagraph (A) will include information on—

"(i) the number of such individuals who are evaluated and the number rehabilitated;

"(ii) the costs of administration, counseling, provision of direct services, development of community rehabilitation programs, and other functions carried out under this Act; and

"(iii) the utilization by such individuals of other programs pursuant to paragraph (11);".

(i) INTERAGENCY COOPERATION.—Section 101(a)(11) (29 U.S.C. 721(a)(11)) is amended—

(1) by striking "(11) provide for entering into cooperative arrangements" and inserting "(11)(A) provide for interagency cooperation";

(2) in subparagraph (A) (as so designated by paragraph (1) of this subsection) by striking ", and the Carl D. Perkins Vocational Education Act);" and inserting "(20 U.S.C. 1400 et seq., the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938, (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.);"; and

(3) by adding at the end the following:

"(B) provide that cooperation under subparagraph (A) shall include, to the extent practicable, means for providing training to staff of the agencies described in subparagraph (A) as to the availability and benefits of, and eligibility standards for, vocational rehabilitation services, in order to enhance the opportunity of individuals receiving the services described in subparagraph (A) to obtain vocational rehabilitation services; and

"(C) in providing for interagency cooperation under subparagraph (A), provide for such cooperation by means including, if appropriate—

"(i) establishing interagency working groups; and

"(ii) entering into formal interagency cooperative agreements that—

"(I) identify policies, practices, and procedures that can be coordinated among the agencies (particularly definitions, standards for eligibility, the joint sharing and use of evaluations and assessments, and procedures for making referrals);

"(II) identify available resources and define the financial responsibility of each agency for paying for necessary services (consistent with State law) and procedures for resolving disputes between agencies; and

"(III) include all additional components necessary to ensure meaningful cooperation and coordination;".

(j) COMMUNITY REHABILITATION PROGRAMS.—Section 101(a)(12) (29 U.S.C. 721(a)(12)) is amended—

(1) in subparagraph (A), by striking "facilities" and inserting "programs"; and

(2) in subparagraph (B), by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(k) CONTINUING STATEWIDE STUDIES.—Section 101(a) (29 U.S.C. 721(a)) is amended—

(1) in the matter preceding paragraph (16) by striking "provide for continuing" and inserting "(15) provide for continuing"; and

(2) in paragraph (15) (as so designated by paragraph (1) of this subsection)—

(A) in subparagraph (A), by striking "conducting";

(B) in subparagraph (B)—

(i) by striking "capacity and condition of rehabilitation facilities, plans for improving such facilities," and inserting "capacity and effectiveness of community rehabilitation programs, plans for improving such programs,"; and

(ii) by striking "and" after the semicolon at the end;

(C) in subparagraph (C), by inserting "and" after the semicolon at the end; and

(D) by adding at the end the following subparagraph:

"(D) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation system;".

(l) REVIEW AND EFFORTS.—Section 101(a)(16) (29 U.S.C. 721(a)(16)) is amended to read as follows:

"(16) provide for—

"(A)(i) at least annual review and reevaluation of the status of each individual with a disability placed in an extended employment setting in a community rehabilitation program (including a workshop) or other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)), to determine the interests, priorities, and needs of the individual for employment, or training for competitive employment, in an integrated setting in the labor market; and

"(ii) input into the review and reevaluation by the individual with a disability, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual, if the individual requests, desires, or needs assistance;

"(B) maximum efforts, including the identification of vocational rehabilitation services, reasonable accommodations, and other support services, to enable such an individual to benefit from training or to be placed in employment in an integrated setting; and

"(C) services designed to promote movement from extended employment to integrated employment, including supported employment, independent living, and community participation;".

(m) CONSTRUCTION.—Section 101(a)(17) (29 U.S.C. 721(a)(17)) is amended—

(1) in the matter preceding subparagraph (A), by striking "where such State plan includes provisions for the construction of rehabilitation facilities" and inserting "if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs"; and

(2) in subparagraph (C), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

(n) VIEWS CONSIDERED.—Section 101(a)(18) (29 U.S.C. 721(a)(18)) is amended by striking "and providers of vocational rehabilitation services" and inserting "providers of vocational rehabilitation services, and the Director of the client assistance program under section 112".

(o) STRATEGIC PLAN.—Section 101(a)(19) (29 U.S.C. 721(a)(19)) is amended by inserting before the semicolon the following: ", and for developing and updating the strategic plan required under part C".

(p) PUBLIC COMMENT.—Section 101(a)(23) (29 U.S.C. 721(a)(23)) is amended—

(1) in subparagraph (A), by inserting after "comment on the State plan" the following: "before development of the plan by the State";

(2) by striking "and" before "(B)"; and

(3) by inserting before the semicolon the following: ", and (C) provide satisfactory assurances that the State agency will consult with the Director of the client assistance program under section 112 in the formulation of policies governing the provision of vocational rehabilitation services consistent with the State plan and other revisions".

(q) GOALS AND PUBLIC EDUCATION.—Section 101(a)(24) (29 U.S.C. 721(a)(24)) is amended to read as follows:

"(24) contain plans, policies, and procedures to be followed (including entering into a formal interagency cooperative agreement, in accordance with paragraph (11)(C)(ii), with education officials responsible for the provision of a free appropriate public education to students who are individuals with disabilities) that are designed to—

"(A) facilitate the development and accomplishment of—

"(i) long-term rehabilitation goals;

"(ii) intermediate rehabilitation objectives; and

"(iii) goals and objectives related to enabling a student to live independently before the student leaves a school setting,

to the extent the goals and objectives described in clauses (i) through (iii) are included in an individualized education program of the student, including the specification of plans for coordination with the educational agencies in the provision of transition services;

"(B) facilitate the transition from the provision of a free appropriate public education under the responsibility of an educational agency to the provision of vocational rehabilitation services under the responsibility of the designated State unit, including the specification of plans for coordination with educational agencies in the provision of transition services authorized under section 103(a)(14) to an individual, consistent with the individualized written rehabilitation program of the individual; and

"(C) provide that such plans, policies, and procedures will address—

"(i) provisions for determining State lead agencies and qualified personnel responsible for transition services;

"(ii) procedures for outreach to and identification of youth in need of such services; and

"(iii) a timeframe for evaluation and followup of youth who have received such services;".

(r) USE OF SUPPORTED EMPLOYMENT FUNDS.—Section 101(a)(25) (29 U.S.C. 721(a)(25)) is amended to read as follows:

"(25) provide assurances satisfactory to the Secretary that the State has an acceptable plan

for carrying out part C of title VI, including the use of funds under that part to supplement funds under part B of this title for the cost of services leading to supported employment;".

(s) ADDITIONAL STATE PLAN REQUIREMENTS.—Section 101(a) (29 U.S.C. 721(a)) is amended by adding at the end the following new paragraphs:

"(26) describe the manner in which on-the-job or other related personal assistance services will be provided to assist individuals with disabilities while the individuals are receiving vocational rehabilitation services;

"(27) describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established;

"(28) identify the needs and utilization of community rehabilitation programs under the Act commonly known as the Wagner-O'Day Act (41 U.S.C. 46 et seq.);

"(29) describe the manner in which individuals with disabilities will be given choice and increased control in determining their vocational rehabilitation goals and objectives;

"(30) describe the manner in which students who are individuals with disabilities and who are not in special education programs can access and receive vocational rehabilitation services, where appropriate;

"(31) describe the manner in which assistive technology devices and services will be provided, or worksite assessments will be made as part of the assessment for determining eligibility and vocational rehabilitation needs of an individual;

"(32) describe the manner in which the State will modify the policies and procedures of the State based on consumer satisfaction surveys conducted by the State Rehabilitation Advisory Council;

"(33) provide for coordination and working relationships with the Statewide Independent Living Council established under section 705 and independent living centers within the State;

"(34) provide satisfactory assurances to the Commissioner that the State—

"(A) has developed and implemented a strategic plan for expanding and improving vocational rehabilitation services for individuals with disabilities on a statewide basis in accordance with part C of this title; and

"(B) will use at least 1.5 percent of the allotment of the State under part B for the uses described in section 123;

"(35)(A) describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this title, including the policy of serving, among others, individuals with the most severe disabilities; and

"(B) provide satisfactory assurances that the system in no way impedes such accomplishment; and

"(36) provide satisfactory assurances to the Commissioner that—

"(A)(i) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 105;

"(ii) the designated State agency and the designated State unit seek and seriously consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the State plan and the strategic plan and amendments to the plans, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

"(iii) the designated State agency includes, in its State plan or an amendment to the plan, a summary of advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the response of the designated State agency to such advice and recommendations (including explanations with respect to advice and recommendations that were rejected); and

"(iv) the designated State unit transmits to the Council—

"(I) all plans, reports, and other information required under the Act to be submitted to the Commissioner;

"(II) all policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

"(III) copies of due process hearing decisions, which shall be transmitted in such a manner as to preserve the confidentiality of the participants in the hearings;

"(B) an independent commission—

"(i) is responsible under State law for overseeing the operation of the designated State agency;

"(ii) is consumer-controlled by persons who—

"(I) are individuals with physical or mental impairments that substantially limit major life activities; and

"(II) represent individuals with a broad range of disabilities;

"(iii) includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

"(iv) undertakes the function set forth in section 105(c)(3); or

"(C) in the case of a State that, under section 101(a)(1)(A)(i), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind and designates a separate State agency to administer the remainder of the State plan—

"(i) an independent commission is responsible under State law for overseeing both such agencies and meets the requirements of subparagraph (B)(ii); or

"(ii)(I) an independent commission is responsible under State law for overseeing the first agency described in this subparagraph and meets the requirements of subparagraph (B)(ii); and

"(II) an independent commission is responsible under State law for overseeing the second State agency described in this subparagraph and is required by such State law to be consumer-controlled by individuals who are blind and to represent individuals who are blind.".

(t) TECHNICAL AMENDMENT.—Section 101 (29 U.S.C. 721) is amended by striking subsections (c) and (d).

**SEC. 123. DETERMINATIONS OF ELIGIBILITY AND INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.**

(a) ELIGIBILITY.—Section 102(a) (29 U.S.C. 722(a)) is amended to read as follows:

"(a)(1) An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(8)(A); and

"(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

"(2) An individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be considered to have—

"(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 7(8)(A)(i); and

"(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 7(15)(A)(i).

"(3) Determinations made by officials of other agencies, particularly the education officials described in section 101(a)(24), regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A), shall be used (to the extent appropriate and available and consistent with the requirements under this Act) for making such determinations under this Act.

"(4)(A) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(8)(A)(ii), unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

"(B) In making the demonstration required under subparagraph (A) with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State unit shall first conduct an extended evaluation by providing the services described in subparagraph (C)(iii)(I), and conducting the assessment described in subparagraph (C)(iii)(II), of section 7(22).

"(5)(A) The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days after the individual has submitted an application to receive the services unless—

"(i) the designated State unit notifies the individual that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual agrees that an extension of time is warranted; or

"(ii) such an extended evaluation is required.

"(B) The determination of eligibility shall be based on the review of existing data described in section 7(22)(A)(i), and, to the extent necessary, the preliminary assessment described in section 7(22)(A)(iii).

"(6) The designated State unit shall ensure that a determination of ineligibility made with respect to an individual prior to the initiation of an individualized written rehabilitation program, based on the review, and to the extent necessary, the preliminary assessment, shall include specification of—

"(A) the reasons for such a determination;

"(B) the rights and remedies available to the individual, including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(C) the availability of services provided by the client assistance program under section 112 to the individual.".

(b) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102(b) (29 U.S.C. 722(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) As soon as a determination has been made that an individual is eligible for vocational rehabilitation services, the designated State unit shall complete an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22) (if such assessment is necessary) and ensure that—

"(i) an individualized written rehabilitation program is jointly developed, agreed upon, and signed by—

"(I) such eligible individual (or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual); and

"(II) the vocational rehabilitation counselor or coordinator; and

"(ii) such program meets the requirements set forth in subparagraph (B).

"(B) Each individualized written rehabilitation program shall—

"(i) be designed to achieve the employment objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities, of the individual;

"(ii) include a statement of the long-term rehabilitation goals based on the assessment for determining eligibility and vocational rehabilitation needs described in section 7(22)(B), including an assessment of career interests, for the individual, which goals shall, to the maximum extent appropriate, include placement in integrated settings;

"(iii) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals, determined through such assessment carried out in the most individualized and integrated setting (consistent with the informed choice of the individual);

"(iv)(I) include a statement of the specific vocational rehabilitation services to be provided, and the projected dates for the initiation and the anticipated duration of each such service;

"(II) if appropriate, include a statement of the specific rehabilitation technology services to be provided to assist in the implementation of intermediate rehabilitation objectives and long-term rehabilitation goals for the individual; and

"(III) if appropriate, include a statement of the specific on-the-job and related personal assistance services to be provided to the individual, and, if appropriate and desired by the individual, the training in managing, supervising, and directing personal assistance services to be provided to the individual;

"(v) include an assessment of the expected need for postemployment services and, if appropriate, extended services;

"(vi) provide for—

"(I) a reassessment of the need for postemployment services and, if appropriate, extended services prior to the point of successful rehabilitation, in accordance with this subsection; and

"(II) if appropriate, the development of a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers;

"(vii) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

"(viii) include the terms and conditions under which goods and services described above will be provided to the individual in the most integrated settings;

"(ix) identify the entity or entities that will provide the vocational rehabilitation services and the process used to provide or procure such services;

"(x) include a statement by the individual, in the words of the individual (or, if appropriate, in the words of a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual), describing how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services, and methods used to provide or procure such services;

"(xi) include, if necessary, an amendment specifying—

"(I) the reasons that an individual for whom a program has been prepared is no longer eligible for vocational rehabilitation services; and

"(II) the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

"(xii) set forth the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

"(xiii) provide a description of the availability of a client assistance program established pursuant to section 112;

"(xiv) to the maximum extent possible, be provided in the native language, or mode of communication, of the individual, or, in an appropriate case, of a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual; and

"(xv) include information identifying other related services and benefits provided pursuant to any Federal, State, or local program that will enhance the capacity of the individual to achieve the vocational objectives of the individual.

"(C) The designated State unit shall furnish a copy of the individualized written rehabilitation program and amendments to the program to the individual with a disability or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual."; and

(2) in paragraph (2), by inserting after the first sentence the following: "Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program. Such revisions or amendments shall not take effect until agreed to and signed by the individual with a disability, or, if appropriate, by a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.".

(c) TECHNICAL AMENDMENTS.—Section 102(c) (29 U.S.C. 722(c)) is amended—

(1) by striking "Commissioner shall also insure" and inserting "Director of the designated State unit shall also ensure"; and

(2) in paragraph (2), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22)".

(d) SELECTION OF IMPARTIAL HEARING OFFICER.—Section 102(d) (29 U.S.C. 722(d)) is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following:

"(B) The impartial hearing officer shall be selected to hear a particular case—

"(i) on a random basis; or

"(ii) by agreement between—

"(I) the Director of the designated State unit and the individual with a disability; or

"(II) in an appropriate case, the Director and a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.

"(C) The impartial hearing officer shall be selected from among a pool of qualified persons identified jointly by—

"(i) the designated State unit; and

"(ii)(I) the members of the State Rehabilitation Advisory Council established under section 105 who were appointed under one of subparagraphs (E) through (H) of section 105(b)(1);

"(II) the commission described in subparagraph (B) or (C)(i) of section 101(a)(36); or

"(III) the commissions described in section 101(a)(36)(C)(ii).";

(2) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C)(i) The Director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless the Director concludes, based on clear and convincing evidence, that the decision of the independent hearing officer is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

"(ii) A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision.

"(iii) Upon making a final decision, the Director shall provide a copy of such decision to such individual.";

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

"(5) Unless the individual with a disability so requests, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual so requests, pending a final determination of such hearing or other final resolution under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided under the individualized written rehabilitation program, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with a disability.".

**SEC. 124. SCOPE OF VOCATIONAL REHABILITATION SERVICES.**

(a) IN GENERAL.—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;";

(2) in paragraph (2)—

(A) by striking "referral,";

(B) by inserting "work-related" before "placement services";

(C) by inserting before "followup," the following: "job search assistance, placement assistance, job retention services, personal assistance services, and";

(D) by striking "maintain or regain employment" and inserting "maintain, regain, or advance in employment"; and

(E) by striking ", and other services" and all that follows through "under this Act";

(3) in paragraph (3)—

(A) by striking "and services" and inserting "and such services"; and

(B) by striking ": Provided, That" and inserting ", except that";

(4) in paragraph (4)(A)—

(A) by striking "handicap to employment," and inserting "impediment to employment,"; and

(B) by striking "substantially reduce the handicap" and inserting "reduce such impediment to employment";

(5) in paragraph (5), by striking ", not exceeding the estimated cost of subsistence, during rehabilitation" and inserting "for additional costs incurred while participating in rehabilitation";

(6) by striking "and" at the end of paragraph (11);

(7) in paragraph (12), by striking "engineering services." and inserting "technology services;"; and

(8) by adding at the end the following:

"(13) referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this Act;

"(14) transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

"(15) on-the-job or other related personal assistance services provided while an individual with a disability is receiving services described in this section; and

"(16) supported employment services.".

(b) ADDITIONAL VOCATIONAL REHABILITATION SERVICES.—Section 103(b) (29 U.S.C. 723(b)) is amended—

(1) in paragraph (1)—

(A) by striking "in the case" and inserting "In the case"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in paragraph (2)—

(A) by striking "the construction" and all that follows through "rehabilitation facilities)" and inserting the following: "The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs)";

(B) by striking the semicolon at the end and inserting a period; and

(C) by adding at the end the following sentence: "Such programs shall be used to provide services that promote integration and competitive employment.";

(3) in paragraph (3)—

(A) by striking "the use of" and inserting "The use of"; and

(B) by striking "; and" and inserting a period;

(4) in paragraph (4), by striking "the use of" and inserting "The use of"; and

(5) by adding at the end the following paragraph:

"(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.".

**SEC. 125. NON-FEDERAL SHARE FOR CONSTRUCTION.**

Section 104 (29 U.S.C. 724) is amended—

(1) by striking "costs of construction or establishment of a public or nonprofit rehabilitation facility" and inserting "costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program"; and

(2) by striking "construction or establishment of a facility" and inserting "establishment of such a program or construction of such a facility".

**SEC. 126. STATE REHABILITATION ADVISORY COUNCIL.**

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) is amended by adding at the end the following:

**"SEC. 105. STATE REHABILITATION ADVISORY COUNCIL.**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Except as provided in subparagraph (B) or (C) of section 101(a)(36), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Advisory Council (referred to in this section as the 'Council') in accordance with this section.

"(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(1)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) COMPOSITION.—The Council shall be composed of—

"(A) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

"(B) at least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(c)(9));

"(C) at least one representative of the client assistance program established under section 112;

"(D) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

"(E) at least one representative of community rehabilitation program service providers;

"(F) four representatives of business, industry, and labor;

"(G) representatives of disability advocacy groups representing a cross section of—

"(i) individuals with physical, cognitive, sensory, and mental disabilities; and

"(ii) parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

"(H) current or former applicants for, or recipients of, vocational rehabilitation services.

"(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio member of the Council.

"(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

"(A) individuals with disabilities described in section 7(8)(B); and

"(B) not employed by the designated State unit.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF COUNCIL.—The Council shall—

"(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

"(A) eligibility (including order of selection);

"(B) the extent, scope, and effectiveness of services provided; and

"(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving rehabilitation goals and objectives under this title;

"(2) advise the designated State agency and the designated State unit, and, at the discretion of the designated State agency, assist in the preparation of applications, the State plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by this title;

"(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with disabilities; and

"(B) vocational rehabilitation services—

"(i) provided, or paid for from funds made available, under this Act or through other public or private sources; and

"(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;

"(4) prepare and submit an annual report to the Governor or appropriate State entity and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

"(5) coordinate with other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12)), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State mental health planning council established under section 1916(e) of the Public Health Service Act (42 U.S.C. 300x–4(e));

"(6) advise the State agency designated under section 101(a)(1) and provide for coordination and the establishment of working relationships between the State agency and the Statewide Independent Living Council and centers for independent living within the State; and

"(7) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Advisory Council determines to be appropriate, that are comparable to the other functions performed by the Council.

"(d) RESOURCES.—

"(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor or appointing agency consistent with paragraph (1).

"(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

"(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

"(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

"(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

"(g) COMPENSATION AND EXPENSES.—The Council may use funds appropriated under this title to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

"(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(i) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 104 the following:

"Sec. 105. State Rehabilitation Advisory Council.".

"Sec. 105. State Rehabilitation Advisory Council.".

**SEC. 127. EVALUATION.**

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) (as amended by section 126(a)), is further amended by adding at the end the following:

**"SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Commissioner shall, not later than September 30, 1994, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program under this title.

"(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate and in no way impede the accomplishment of the purpose and policy of this title.

"(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

"(b) COMPLIANCE.—

"(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

"(2) PROGRAM IMPROVEMENT.—

"(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

"(B) REVIEW.—The Commissioner shall—

"(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

"(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

"(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

"(d) REPORT TO CONGRESS.—Beginning in fiscal year 1996, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 105 (as added by section 126(b)) the following:

"Sec. 106. Evaluation standards and performance indicators.".

**SEC. 128. MONITORING AND REVIEW.**

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) (as amended by sections 126(a) and 127(a)), is further amended by adding at the end the following:

**"SEC. 107. MONITORING AND REVIEW.**

"(a) IN GENERAL.—

"(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

"(A) provide for the annual review and periodic on-site monitoring of programs under this title; and

"(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

"(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

"(A) State policies and procedures;

"(B) guidance materials;

"(C) decisions resulting from hearings conducted in accordance with due process;

"(D) strategic plans and updates;

"(E) plans and reports prepared under section 106(b);

"(F) consumer satisfaction surveys described in section 101(a)(32);

"(G) information provided by the State Rehabilitation Advisory Council established under section 105;

"(H) reports; and

"(I) budget and financial management data.

"(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

"(A) on-site visits, including on-site reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Advisory Council;

"(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

"(E) meetings with rehabilitation counselors and other personnel.

"(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(35) facilitates and does not impede the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Advisory Council; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

"(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

"(c) FAILURE TO COMPLY WITH PLAN.—

"(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

"(d) REVIEW.—

"(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner

under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3) STANDARDS OF REVIEW.—

"(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 6(c) (29 U.S.C. 705(c)) is amended by striking "101" and inserting "107".

(2) The table of contents relating to the Act is amended by inserting after the item relating to section 106 (as added by section 127(b)) the following:

"Sec. 107. Monitoring and review.".

**SEC. 129. EXPENDITURE OF CERTAIN AMOUNTS.**

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by the preceding sections, is further amended by adding at the end the following:

**"SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS.**

"(a) EXPENDITURE.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part C of title VI, or under title VII.

"(b) AMOUNTS.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 107 (as added by section 128(b)(2)) the following:

"Sec. 108. Expenditure of certain amounts.".

**SEC. 130. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.**

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by the preceding sections, is further amended by adding at the end the following:

**"SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.**

"A State may expend payments received under section 111—

"(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

"(2) to inform employers of the existence of the program and the availability of the services of the program.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 108 (as added by section 129(b)) the following:

"Sec. 109. Training of employers with respect to Americans with Disabilities Act of 1990.".

**SEC. 131. REALLOTMENT.**

(a) TERRITORIES.—Section 110(a) (29 U.S.C. 730(a)) is amended—

(1) in paragraph (3), by striking "and the Trust Territory of the Pacific Islands" and inserting "and the Republic of Palau"; and

(2) by adding at the end the following new paragraph:

"(5) The Republic of Palau may receive allotments or allocations under this section only until the Compact of Free Association with Palau takes effect.".

(b) REALLOTMENT.—Section 110(c) (29 U.S.C. 730(c)) is amended by adding at the end the following:

"(4) If the Commissioner determines, under paragraph (1), that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the payment shall remain available for reallotment to other States until reallotted.".

(c) RESERVATION.—Section 110(d) (29 U.S.C. 730(d)) is amended by striking paragraph (2) and inserting the following:

"(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

"(A) not less than one-third of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1993 and 1994; and

"(B) not less than one-half of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1995, 1996, and 1997.".

**SEC. 132. PAYMENTS TO STATES.**

Section 111(a) (29 U.S.C. 731(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(including any additional payment to it under section 110(b))"; and

(B) by striking "State plan." and inserting "State plan and development and implementation of the strategic plan as provided in section 101(a)(34)(A). Any State that receives such an amount shall expend, for development and implementation of the strategic plan, not less than the percentage of the allotment of the State referred to in section 101(a)(34)(B).";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "(and any additional payment under subsection (b))"; and

(B) by amending subparagraph (B) to read as follows:

"(B)(i) For fiscal year 1993, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the 3 fiscal years preceding the previous fiscal year.

"(ii) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year."; and

(3) by adding at the end the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a))), in such State.

"(B) If the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such section.".

**SEC. 133. CLIENT ASSISTANCE PROGRAM.**

(a) ADVOCACY.—Section 112(a) (29 U.S.C. 732(a)) is amended—

(1) in the first sentence—

(A) by striking "to assist such clients" and inserting "to assist and advocate for such clients";

(B) by inserting "and advocacy" after "including assistance"; and

(C) by inserting before the period in the first sentence the following: "and to facilitate access to the services funded under this Act through individual and systemic advocacy";

(2) by amending the second sentence to read as follows: "The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs."; and

(3) by inserting after the second sentence the following: "In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.".

(b) REDESIGNATION OF AGENCY.—Section 112(c)(1) (29 U.S.C. 732(c)(1)) is amended by striking subparagraph (B) and inserting the following:

"(B) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

"(i) the Governor has given the agency 30 days notice of the intention to make such redes-

ignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

"(ii) individuals with disabilities or their representatives have timely notice of the redesignation and opportunity for public comment; and

"(iii) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.".

(c) MINIMUM STATE ALLOTMENTS.—Section 112(e)(1) (29 U.S.C. 732(e)(1)) is amended—

(1) in subparagraph (B), by striking "and the Trust Territory of the Pacific Islands." and inserting "and the Republic of Palau, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.";

(2) in subparagraph (C), by striking "and the Trust Territory of the Pacific Islands" and inserting "and the Republic of Palau"; and

(3) in subparagraph (D)—

(A) in clause (i), by striking "$75,000" and inserting "$100,000"; and

(B) in clause (ii)—

(i) by striking "subsection (c)," and inserting "clause (i),";

(ii) by striking "minimum allotment under subparagraph (A)" and inserting "minimum allotments under subparagraphs (A) and (B)"; and

(iii) by striking "fiscal year by more than" and all that follows and inserting "fiscal year.".

(d) REPORT.—Section 112(g) (29 U.S.C. 732(g)) is amended by adding at the end the following new paragraphs:

"(5) Each such report shall contain information on the number of requests the client assistance program under this section receives annually, the number of requests such program is unable to serve, and the reasons that the program is unable to serve all the requests.

"(6) For purposes of such report or for any other periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 112 (29 U.S.C. 732) is amended—

(1) by striking subsection (h);

(2) by redesignating subsection (i) as subsection (h); and

(3) in subsection (h) (as so redesignated by paragraph (2) of this subsection) by striking "$7,100,000" and all that follows and inserting "such sums as may be necessary for fiscal years 1993 through 1997 to carry out the provisions of this section.".

**SEC. 134. INNOVATION AND EXPANSION GRANTS.**

(a) AMENDMENT.—Part C of title I (29 U.S.C. 740 et seq.) is amended to read as follows:

"PART C—INNOVATION AND EXPANSION GRANTS

**"SEC. 120. STATE ELIGIBILITY.**

"Effective October 1, 1993, any State desiring to receive assistance under this part and part B of this title shall prepare and submit to the Commissioner a statewide strategic plan for developing and using innovative approaches for achieving long-term success in expanding and improving vocational rehabilitation services, including supported employment services, provided under the State plan submitted under section 101 and the supplement to the State plan submitted under part C of title VI.

**"SEC. 121. CONTENTS OF STRATEGIC PLANS.**

"(a) PURPOSE AND POLICY.—The strategic plan shall be designed to achieve the purpose and policy of this title and carry out the State plan and the supplement to the State plan submitted under part C of title VI.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, philosophy, values, and principles of the vocational rehabilitation program in the State;

"(2) specific goals and objectives for expanding and improving the system for providing the vocational rehabilitation program;

"(3) specific multifaceted and systemic approaches for accomplishing the objectives, including interagency coordination and cooperation, that build upon state-of-the-art practices and research findings and that implement the State plan and the supplement to the State plan submitted under part C of title VI;

"(4) a description of the specific programs, projects, and activities funded under this part and how the programs, projects, and activities accomplish the objectives; and

"(5) specific criteria for determining whether the objectives have been achieved, an assurance that the State will conduct an annual evaluation to determine the extent to which the objectives have been achieved, and, if specific objectives have not been achieved, the reasons that the objectives have not been achieved and a description of alternative approaches that will be taken.

**"SEC. 122. PROCESS FOR DEVELOPING STRATEGIC PLANS.**

"(a) PERIOD AND UPDATES.—The strategic plan shall cover a 3-year period and shall be updated on an annual basis to reflect actual experience over the previous year and input from the State Rehabilitation Advisory Council established under section 105, individuals with disabilities, and other interested parties.

"(b) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall hold public forums and meet with and receive recommendations from members of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 705.

"(c) CONSIDERATION OF RECOMMENDATIONS.—The State shall consider the recommendations and, if the State rejects the recommendations, shall include a written explanation of the rejection in the strategic plan.

"(d) PROCEDURE.—The State shall develop a procedure for ensuring ongoing comment from the councils described in subsection (b) as the plan is being implemented.

"(e) DISSEMINATION.—The State shall widely disseminate the strategic plan to individuals with disabilities, disability organizations, rehabilitation professionals, and other interested persons.

**"SEC. 123. USE OF FUNDS.**

"A State may use funds made available under this part, directly or by grant, contract, or other arrangement, to carry out—

"(1) programs to initiate and expand employment opportunities for individuals with severe disabilities in integrated settings that allow for the use of on-the-job training to promote the objectives of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.);

"(2) programs or activities to improve the provision of, and expand, employment services in integrated settings to individuals with sensory, cognitive, physical, and mental impairments who have traditionally not been served by the State vocational rehabilitation agency;

"(3) programs and activities to maximize the ability of individuals with disabilities to use rehabilitation technology in employment settings;

"(4) programs and activities that—

"(A) assist employers in accommodating, evaluating, training, or placing individuals with disabilities in the workplace of the employer consistent with provisions of this Act and title I of the Americans with Disabilities Act of 1990; and

"(B) may include short-term technical assistance or other effective strategies;

"(5) programs and activities that expand and improve the extent and type of client involvement in the review and selection of the training and employment goals of the client;

"(6) programs and activities that expand and improve opportunities for career advancement for individuals with severe disabilities;

"(7) programs, projects, and activities designed to initiate, expand, or improve working relationships between vocational rehabilitation services provided under this title and independent living services provided under title VII;

"(8) programs, projects, and activities designed to improve functioning of the system for delivering vocational rehabilitation services and to improve coordination and working relationships with other State and local agencies, business, industry, labor, community rehabilitation programs, and centers for independent living, including projects designed to—

"(A) increase the ease of access to, timeliness of, and quality of vocational rehabilitation services through the development and implementation of policies, procedures, and systems and interagency mechanisms for providing vocational rehabilitation services;

"(B) improve the working relationships between State vocational rehabilitation agencies, and other State agencies, centers for independent living, community rehabilitation programs, educational agencies involved in higher education, adult basic education, and continuing education, and businesses, industry, and labor organizations, in order to create and facilitate cooperation in—

"(i) planning and implementing services; and

"(ii) the development of an integrated system of community-based vocational rehabilitation service that includes appropriate transitions between service systems; and

"(C) improve the ability of professionals, clients, advocates, business, industry, and labor to work in cooperative partnerships to improve the quality of vocational rehabilitation services and job and career opportunities for individuals with disabilities;

"(9) support efforts to ensure that the annual evaluation of the effectiveness of the program in meeting the goals and objectives set forth in the State plan, including the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State, facilitates and does not impede the accomplishment of the purpose and policy of this title, including serving, among others, individuals with the most severe disabilities;

"(10) support the initiation, expansion, and improvement of a comprehensive system of personnel development;

"(11) support the provision of training and technical assistance to clients, business, industry, labor, community rehabilitation programs, and others regarding the implementation of the amendments made by the Rehabilitation Act Amendments of 1992, of title V of this Act, and of the Americans with Disabilities Act of 1990; and

"(12) support the funding of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 705.

**"SEC. 124. ALLOTMENTS AMONG STATES.**

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraph (B), from sums appropriated for each fiscal year to carry out this part (not including sums used in accordance with section 101(a)(34)(B)), the Commissioner shall make an allotment to each State whose State plan has been approved under section 101 of an amount bearing the same ratio to such sums as the pop-

ulation of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this part, the allotment to any State under subparagraph (A) shall be not less than $200,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $200,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) ADJUSTMENT FOR INFLATION.—For purposes of determining the minimum amount of an allotment under paragraph (1)(B), the amount $200,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(b) PROPORTIONAL REDUCTION.—Amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B) as increased under subsection (a)(3), or to provide allotments in accordance with subsection (a)(2)(B), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of one percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the purposes of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to part C of title I and inserting the following:

"PART C—INNOVATION AND EXPANSION GRANTS

"Sec. 120. State eligibility.
"Sec. 121. Contents of strategic plans.
"Sec. 122. Process for developing strategic plans.
"Sec. 123. Use of funds.
"Sec. 124. Allotments among States.".

**SEC. 135. STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.**

(a) REPEAL.—Part D of title I is amended by repealing section 131 (29 U.S.C. 751).

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 131.

**SEC. 136. REVIEW OF DATA COLLECTION SYSTEM.**

(a) REVIEW.—The Commissioner of the Rehabilitation Services Administration (in this section referred to as the 'Commissioner') shall undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), particularly data on clients of the programs under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

(b) CONSIDERATIONS.—

(1) IN GENERAL.—In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

(2) DATA ELEMENTS.—In conducting the review, the Commissioner shall examine the feasibility of collecting and reporting under the system information, if such information can be determined, regarding—

(A) other program participation by clients during the 3 years prior to application;

(B) the number of jobs held, hours worked, and earnings received by clients in the 3 years prior to application to a program under the Rehabilitation Act of 1973;

(C) the types of major and secondary disabilities of clients;

(D) the dates of the onset of disabilities of clients;

(E) the severity of the disabilities of clients;

(F) the sources of referral of clients to programs under such Act;

(G) the hours worked by clients;

(H) the size and industry code of the place of employment of clients at the time of entry into such a program and at the termination of services under the program;

(I) the number of services provided under the programs and the cost of each service;

(J) the types of public support received by the clients;

(K) the primary sources of economic support and amounts of public assistance received by the clients before and after receiving the services;

(L) whether the clients are covered by health insurance from any source and whether health insurance is available through the employment of the client;

(M) the supported employment status of the client; and

(N) the reasons for terminating the services.

(c) RECOMMENDATIONS.—Based on the review, the Commissioner shall recommend improvements in the data collection and reporting system.

(d) VIEWS.—In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of vocational rehabilitation services, professionals in the field of vocational rehabilitation, clients and organizations representing clients, the National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

(e) PUBLICATION AND SUBMISSION OF REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall publish the recommendations in the Federal Register and shall prepare and submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

**SEC. 137. EXCHANGE OF DATA.**

The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purpose of exchanging data of mutual importance, regarding clients of State vocational rehabilitation agencies, that are contained in databases maintained by the Rehabilitation Services Administration, as required under section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 712), and the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records. For purposes of the exchange, the Social Security data shall not be considered tax information and, as appropriate, the confidentiality of all client information shall be maintained by both agencies.

**SEC. 138. EFFECTIVE DATE.**

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) STATE PLAN.—The Secretary of Education shall implement the amendments made by section 122 of this Act to section 101 of the Rehabilitation Act of 1973 (29 U.S.C. 721), as soon as is practicable after the date of enactment of this Act, consistent with the effective and efficient administration of the Rehabilitation Act of 1973, but not later than October 1, 1993.

## TITLE II—RESEARCH

**SEC. 201. DECLARATION OF PURPOSE.**

Section 200 (29 U.S.C. 760) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

"(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the long-range plan for research developed under section 202(g);

"(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

"(A) the procurement process for the purchase of rehabilitation technology;

"(B) the utilization of rehabilitation technology on a national basis; and

"(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently;

"(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

"(A) generated by research, demonstration projects, training, and related activities; and

"(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties;

"(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in productive work; and

"(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.".

**SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

Section 201(a) (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1)—

(A) by striking "other than expenses to carry out section 204" and inserting "which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204"; and

(B) by striking "fiscal year 1987" and all that follows through the semicolon and inserting "each of fiscal years 1993 through 1997;"; and

(2) by striking paragraph (2) and inserting the following:

"(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1993 through 1997.".

**SEC. 203. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.**

(a) ESTABLISHMENT.—Section 202(a) (29 U.S.C. 761a(a)) is amended—

(1) in the first sentence—

(A) by striking "In order" and all that follows through "there" and inserting "(1) There"; and

(B) by striking the period at the end and inserting the following: ", in order to—

"(A) promote, coordinate, and provide for—

"(i) research;

"(ii) demonstration projects; and

"(iii) related activities,

with respect to individuals with disabilities;

"(B) more effectively carry out activities through the programs under section 204;

"(C) widely disseminate information from the activities described in clauses (i) through (iii) of subparagraph (A) and subparagraph (B); and

"(D) provide leadership in advancing the quality of life of individuals with disabilities."; and

(2) by striking the second sentence and inserting the following:

"(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).".

(b) RESPONSIBILITIES.—Section 202(b) (29 U.S.C. 761a(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related activities funded by the Institute, to—

"(A) other Federal, State, tribal, and local public agencies;

"(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(C) rehabilitation practitioners; and

"(D) individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals;";

(2) by striking paragraph (4) and inserting the following:

"(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

"(A) public and private entities, including—

"(i) elementary and secondary schools (as defined in paragraphs (8) and (21), respectively, of section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891 (8) and (21)); and

"(ii) institutions of higher education;

"(B) rehabilitation practitioners;

"(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this Act); and

"(D) the parents, family members, guardians, advocates, or authorized representatives of the individuals;";

(3) by striking paragraph (6) and inserting the following:

"(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology, pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;";

(4) in paragraph (7), by striking "; and" and inserting ", including dissemination activities;";

(5) in paragraph (8)—

(A) by inserting "the Health Care Financing Administration," after "the Bureau of the Census,";

(B) by inserting "widely" before "disseminating";

(C) by striking "and others to assist in the planning and evaluation" and inserting ", individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of such individuals, and others to assist in the planning, assessment, and evaluation"; and

(D) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following paragraphs:

"(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

"(10) conducting research to examine the relationship between the provision of specific services and long-term vocational outcomes; and

"(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).".

(c) DIRECTOR.—

(1) IN GENERAL.—Section 202(c)(1) (29 U.S.C. 761a(c)(1)) is amended—

(A) in the first sentence, by striking "appointed by the President, by and with the advice and consent of the Senate." and inserting "appointed by the Secretary, except that the person serving as the Director on the date of the enactment of the Rehabilitation Act Amendments of 1992 may, at the pleasure of the President, continue to serve as Director."; and

(B) by striking the fourth sentence.

(2) QUALIFICATIONS.—Section 202(c)(2) (29 U.S.C. 761a(c)(2)) is amended—

(A) by inserting after the first sentence the following: "The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration.";

(B) in the sentence beginning "The Deputy Director shall be compensated"—

(i) by striking "the rate provided for grade GS–17 of the General Schedule under section 5332" and inserting "the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382"; and

(ii) by striking "or disability of the Director" and inserting "of the Director or the inability of the Director to perform the essential functions of the job"; and

(C) by striking the last sentence.

(d) FELLOWSHIPS.—Section 202(d) (29 U.S.C. 761a(d)) is amended by inserting ", including individuals with disabilities," after "fellows".

(e) SCIENTIFIC REVIEW.—Section 202(e) (29 U.S.C. 761a(e)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking "rehabilitation field." and inserting the following: "rehabilitation field (including experts in the independent living field) competent to review research grants and programs, including knowledgeable individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. The Director shall solicit nominations for such peer review groups from the public and shall publish the names of the individuals selected. Individuals comprising each peer review group shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review."; and

(3) by adding at the end the following:

"(2) In providing for such scientific review, the Secretary shall provide for training of such individuals and mechanisms to receive input from individuals with disabilities, and from the parents, family members, guardians, advocates, or authorized representatives of the individuals.".

(f) USE OF FUNDS.—Section 202 (29 U.S.C. 761a) is amended by striking subsection (f) and inserting the following:

"(f) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.".

(g) LONG-RANGE PLAN.—Section 202(g) (29 U.S.C. 761a(g)) is amended—

(1) in the matter preceding paragraph (1), by striking "within eighteen months after the effective date of this section";

(2) in paragraph (1), by striking "problems encountered" and all that follows and inserting "full inclusion and integration into society of individuals with disabilities, especially in the area of employment;";

(3) by striking "and" at the end of paragraph (2);

(4) by striking the period at the end of paragraph (3) and inserting "; and"; and

(5) by adding at the end the following new paragraphs:

"(4) be developed in consultation with the Rehabilitation Research Advisory Council established under section 205 and after full consideration of the input of individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, organizations representing individuals with disabilities, providers of services furnished under this Act, and researchers in the rehabilitation field;

"(5) specify plans for widespread dissemination of research results in accessible formats to rehabilitation practitioners, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals;

"(6) specify plans for widespread dissemination of research results that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs under this Act;

"(7) be developed by the Director—

"(A) in coordination with the Commissioner; and

"(B) in consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), the Interagency Committee on Disability Research established under section

203, individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and any other persons or entities the Director considers appropriate; and

"(8) be revised, in the manner required by this section—

"(A) at least once every 5 years; and

"(B) at any time determined to be necessary by the Director.".

(h) RESEARCH PROGRAM.—Section 202(i)(2) (29 U.S.C. 761a(i)(2)) is amended by striking "this section" and inserting "this title".

(i) PEDIATRIC REHABILITATION RESEARCH.—Section 202(j) (29 U.S.C. 761a(j)) is amended—

(1) in paragraph (1), by striking "for the establishment of" and inserting "to support"; and

(2) in paragraphs (2) and (3), by striking "establish" and inserting "support".

(j) REHABILITATION RESEARCHERS.—Section 202(k) (29 U.S.C. 761a(k)) is amended by striking "researchers" and all that follows and inserting the following: "rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act.".

(k) RECOMMENDATIONS AND STUDY.—Section 202 (29 U.S.C. 761a) is amended by striking subsections (l) and (m).

**SEC. 204. INTERAGENCY COMMITTEE.**

(a) ESTABLISHMENT.—Section 203(a)(1) (29 U.S.C. 761b(a)(1)) is amended by inserting "the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services," after "designees): the Director,".

(b) IDENTIFICATION, ASSESSMENT, AND COORDINATION.—Section 203(b) (29 U.S.C. 761b(b)) is amended by striking "The" and inserting "After receiving input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, the".

(c) REPORT.—Section 203(c) (29 U.S.C. 761b(c)) is amended by striking ", not later than" and all that follows through "shall" and inserting "shall annually".

**SEC. 205. RESEARCH.**

(a) IN GENERAL.—Section 204(a) (29 U.S.C. 762(a)) is amended—

(1) in the first sentence, by striking "demonstrations," and all that follows and inserting "demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and improve the effectiveness of services authorized under this Act. In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, VI, VII, and VIII."; and

(2) in the last sentence—

(A) by inserting after "Such projects" the following: ", as described in the State plans submitted by State agencies,";

(B) by striking "special problems of homebound and institutionalized individuals" and inserting "studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized"; and

(C) by striking the period at the end and inserting the following: ", particularly individuals with disabilities, and individuals with the most severe disabilities, who are members of populations that are unserved or underserved by programs under this Act.".

(b) RESEARCH ACTIVITIES.—Section 204(b) (29 U.S.C. 762(b)) is amended—

(1) by redesignating paragraphs (4) through (15) as paragraphs (5) through (16), respectively;

(2) by striking the matter preceding paragraph (1) and all that follows through paragraph (3) and inserting the following:

"(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the specialized research or demonstration activities described in paragraphs (2) through (16).

"(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which Centers shall—

"(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

"(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(B) The Centers shall conduct research and training activities by—

"(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities;

"(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

"(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

"(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, through conferences, workshops, public education programs, in-service training programs, and similar activities.

"(C) The research to be carried out at each such Center may include—

"(i) basic or applied medical rehabilitation research;

"(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

"(iii) research related to vocational rehabilitation;

"(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

"(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

"(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

"(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

"(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

"(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

"(G) Grants made under this paragraph may be used to provide faculty support for teaching—

"(i) rehabilitation related courses of study for credit; and

"(ii) other courses offered by the Centers, either directly or through another entity.

"(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

"(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

"(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

"(K) To be eligible to receive a grant under this paragraph, each such institution or provider shall—

"(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

"(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

"(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(N) The Director shall establish a system of peer review of applications for grants under this paragraph. The peer review of an application for the renewal of a grant made under this paragraph shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

"(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

"(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

"(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

"(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

"(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

"(ii) demonstrating and disseminating—

"(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

"(II) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; or

"(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

"(I) consumer responsive and individual and family centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

"(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with severe disabilities.

"(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with programs established under the Technology-Related Assistance to Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, to—

"(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

"(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

"(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

"(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

"(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

"(I) Early childhood services, including early intervention and family support.

"(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

"(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

"(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills, and activities of daily living.

"(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the parents, family members, guardians, advocates, or authorized representatives of users of rehabilitation technology.

"(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(G) Each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

"(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director.

"(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

"(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the parents, family members, guardians, advocates, or authorized representatives of such individuals, and organizations receiving financial assistance under this paragraph;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.";

(3) in paragraphs (5) through (16) (as so redesignated by paragraph (1) of this subsection), by striking "Conduct of" the first place in each such paragraph that the term appears and inserting "Research grants may be used to conduct";

(4) in paragraph (9) (as so redesignated by paragraph (1) of this subsection), to read as follows:

"(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.";

(5) in paragraph (12)(A) (as so redesignated by paragraph (1) of this subsection), by inserting "assessment," after "early intervention,"; and

(6) in paragraph (13) (as so redesignated by paragraph (1) of this subsection)—

(A) in the matter preceding subparagraph (A), by striking "developing the employment potential" and inserting "addressing the employment needs"; and

(B) in subparagraph (B), by striking "potential" and inserting "needs".

**SEC. 206. REHABILITATION RESEARCH ADVISORY COUNCIL.**

(a) COUNCIL.—Title II (29 U.S.C. 760 et seq.) is amended by adding at the end the following new section:

"REHABILITATION RESEARCH ADVISORY COUNCIL

"SEC. 205. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

"(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the long-range plan required by section 202(g).

"(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. At least one-half of the members shall be individuals with disabilities or parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(d) TERMS OF APPOINTMENT.—

"(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive

full terms. Members may serve after the expiration of their terms until their successors have taken office.

"(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(f) PAYMENT AND EXPENSES.—

"(1) PAYMENT.—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

"(2) TRAVEL EXPENSES.—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

"(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by inserting after the item relating to section 204 the following:

"Sec. 205. Rehabilitation Research Advisory Council.".

## TITLE III—TRAINING AND DEMONSTRATION PROJECTS

### SEC. 301. DECLARATION OF PURPOSE; ORGANIZATION.

(a) PURPOSE.—Section 300 (29 U.S.C. 770) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (4), (3), (2), and (5), respectively;

(2) by inserting paragraphs (2) and (3) (as so redesignated by paragraph (1) of this subsection), respectively, before paragraph (4) (as so redesignated by paragraph (1) of this subsection);

(3) by inserting before paragraph (2) the following:

"(1) authorize grants and contracts to—

"(A) ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs, through supported employment programs, through independent living services programs, and through client assistance programs;

"(B) maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery systems and rehabilitation technology services; and

"(C) provide training and information to individuals with disabilities, the parents, families, guardians, advocates, and authorized representatives of the individuals, and other appropriate parties to develop the skills necessary for individuals with disabilities to access the rehabilitation system and to become active decisionmakers in the rehabilitation process;";

(4) in paragraph (2) (as so redesignated by paragraph (1)) by striking "and" at the end;

(5) in paragraph (3) (as so redesignated by paragraph (1)) by striking "training" and inserting "rehabilitation"; and

(6) in paragraph (4) (as so redesignated by paragraph (1)) by striking "construction" and all that follows and inserting "development and improvement of community rehabilitation programs; and".

(b) ORGANIZATION.—Title III (29 U.S.C. 770 et seq.) is amended—

(1) by striking the headings for the title and part A of the title and inserting the following:

"TITLE III—TRAINING AND DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS";

(2) by striking section 301 (29 U.S.C. 771);

(3) by redesignating sections 300, 302, 303, and 304 (29 U.S.C. 770, 772, 773, and 774) as sections 301, 303, 304, and 302, respectively; and

(4) by inserting section 302 (as so redesignated by paragraph (3) of this subsection) after section 301.

(c) CONFORMING AMENDMENTS.—The table of contents relating to title III is amended to read as follows:

"TITLE III—TRAINING AND DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS

"Sec. 301. Declaration of purpose.
"Sec. 302. Training.
"Sec. 303. Vocational rehabilitation services for individuals with disabilities.
"Sec. 304. Loan guarantees for community rehabilitation programs.
"Sec. 305. Comprehensive rehabilitation centers.
"Sec. 306. General grant and contract requirements.

"PART B—SPECIAL PROJECTS

"Sec. 310. Authorization of appropriations.
"Sec. 311. Special demonstration programs.
"Sec. 312. Migratory workers.
"Sec. 314. Reader services for individuals who are blind.
"Sec. 315. Interpreter services for individuals who are deaf.
"Sec. 316. Special recreational programs.".

### SEC. 302. TRAINING.

(a) TRAINING GRANTS AND CONTRACTS.—

(1) CERTAIN PROJECTS.—Section 302(a) (29 U.S.C. 774(a)) (as so redesignated by section 301(b)(3)) is amended in the first sentence—

(A) in the matter preceding paragraph (1)—

(i) by inserting after "traineeships, and related activities" the following: ", including the provision of technical assistance,"; and

(ii) by inserting ", and other services provided under this Act," after "rehabilitation services";

(B) in paragraph (1), by striking "specially" and inserting "specifically";

(C) in paragraph (2), by inserting before the comma at the end the following: ", including needs for rehabilitation technology services";

(D) in paragraph (3)—

(i) by striking "comprehensive services for independent living" and inserting "independent living services"; and

(ii) by striking "and" at the end;

(E) by redesignating paragraph (4) as paragraph (5); and

(F) by inserting after paragraph (3) the following: "(4) personnel specifically trained to deliver services, through supported employment programs, to individuals with the most severe disabilities, and";

(2) CERTAIN REQUIREMENTS; APPLICATION FOR ASSISTANCE.—Section 302(a) (29 U.S.C. 774(a)), as amended by paragraph (1), is amended—

(A) by striking the second and third sentences;

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(C) by inserting "(1)" after the subsection designation; and

(D) by adding at the end the following paragraphs:

"(2) Grants and contracts under paragraph (1) may be expended for scholarships, with necessary stipends and allowances.

"(3) In carrying out this subsection, the Commissioner shall furnish training regarding the services provided under this Act, and, in particular, services provided in accordance with amendments made by the Rehabilitation Act Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of section 504 of this Act, title I of the Americans with Disabilities Act of 1990, and the provisions of titles II and XVI of the Social Security Act that are related to work incentives for individuals with disabilities.

"(4) The Commissioner, in carrying out this subsection, shall make grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 50 percent.

"(5) No grant shall be awarded under this section unless the applicant has submitted an application to the Commissioner in such form, and in accordance with such procedures, as the Commissioner may require. Any such application shall include a detailed description of strategies that will be utilized to recruit and train persons so as to reflect the diverse populations of the United States, as part of the effort to increase the number of individuals with disabilities, and individuals who are members of minority groups, who are available to provide rehabilitation services.".

(b) PROJECTS.—Section 302(b) (29 U.S.C. 774(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) In making such grants or contracts, the Commissioner shall target funds made available for any year to areas of personnel shortage.

"(B) Projects described in subsection (a) may include—

"(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

"(ii) projects to train personnel to provide—

"(I) services to individuals with specific disabilities or specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under this Act;

"(II) job development and job placement services to individuals with disabilities;

"(III) supported employment services, including services of employment specialists for individuals with disabilities;

"(IV) specialized services for individuals with severe disabilities; or

"(V) recreation for individuals with disabilities; and

"(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities."; and

(2) in paragraph (3)(A)—

(A) by inserting ", for any academic year beginning after June 1, 1992," after "who receives a scholarship"; and

(B) by striking clause (i) and inserting the following:

"(i) maintain employment—

"(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

"(II) on a full- or part-time basis; and

"(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this section was received,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and".

(c) TECHNICIAN TRAINING; CAREER ADVANCEMENT AND COMPETENCY-BASED TRAINING.—Section 302 (29 U.S.C. 774) is amended—

(1) by redesignating subsections (d) through (f) as subsections (f) through (h), respectively; and

(2) by inserting after subsection (c) the following subsections:

"(d) In carrying out subsection (a), the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the development of rehabilitation technician programs. Such programs shall be designed to train local employees, who are recruited from or reside in a community historically unserved or underserved by programs providing vocational rehabilitation services under this Act, to be liaisons between the community and vocational rehabilitation counselors. The rehabilitation technician program shall provide a mechanism through which individuals with disabilities residing in remote, isolated settings can successfully access vocational rehabilitation services.

"(e)(1) In carrying out subsection (a), the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the formation of consortia or partnerships of public or nonprofit private entities for the purpose of providing opportunities for career advancement or competency-based training to current employees of public or nonprofit private agencies that provide services to individuals with disabilities. Such opportunities shall include certificate or degree granting programs in vocational rehabilitation services and related services.

"(2) An entity that receives a grant under paragraph (1) may use the grant for purposes including—

"(A) establishing a program with an institution of higher education to develop creative new programs and coursework options, or to expand existing programs, concerning the fields of vocational rehabilitation services and related services, including—

"(i) providing release time for faculty and staff for curriculum development; and

"(ii) paying for instructional costs and start-up and other program development costs;

"(B) establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, and county employees, and volunteers, who—

"(i) have demonstrated a commitment to working in the fields described in clause (i); and

"(ii) are enrolled in a program relating to such a field at an institution of higher education;

"(C) supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in such fields; and

"(D) identifying existing public or private agency and labor union personnel policies and benefit programs that may facilitate the ability of employees to take advantage of higher education opportunities, such as leave time and tuition reimbursement.

"(3) In making grants for projects under paragraph (1), the Commissioner shall ensure that the projects shall be geographically distributed throughout the United States in urban and rural areas.

"(4) The Commissioner shall, for the purpose of providing technical assistance to States or entities receiving grants under paragraph (1), enter into a cooperative agreement through a separate competition with an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of employees to serve individuals with disabilities through the use of consortia or partnerships established for the purpose of retraining the existing work force and providing opportunities for career enhancement.

"(5) The Commissioner may conduct an evaluation of projects funded under this subsection.

"(6) During the period in which an entity is receiving financial assistance under paragraph (1), the entity may not receive financial assistance under paragraph (4).".

(d) OFFICE OF DEAFNESS AND COMMUNICATIVE DISORDERS.—Section 302(f) (29 U.S.C. 774(f)) (as so redesignated by subsection (c)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind";

(ii) by striking "Office of Information and Resources for Individuals With Disabilities" and inserting "Office of Deafness and Communicative Disorders"; and

(iii) by striking "grants under this section" and inserting "grants"; and

(B) by striking the second sentence; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "this section" and inserting "paragraph (1)";

(B) in subparagraph (B), by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind";

(C) in subparagraph (C), by adding "and" after the semicolon at the end;

(D) by striking subparagraph (D); and

(E) by redesignating subparagraph (E) as subparagraph (D).

(e) COMPENSATION OF EXPERTS AND CONSULTANTS.—Section 302(g) (29 U.S.C. 774(g)) (as so redesignated by subsection (c)) is amended—

(1) in paragraph (1), by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2), by striking "the daily rate payable for grade GS-18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382"; and

(3) by adding at the end the following:

"(3)(A) Subject to subparagraph (B), at least 15 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used, directly or indirectly, for projects for in-service training of rehabilitation personnel, including projects designed—

"(i) to address recruitment and retention of qualified rehabilitation professionals;

"(ii) to provide for succession planning;

"(iii) to provide for leadership development and capacity building; and

"(iv) for fiscal years 1993 and 1994, to provide training regarding the amendments to this Act made by the Rehabilitation Act Amendments of 1992.

"(B) If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1992 by other recipients of funds under this section, the Commissioner may allocate less than 15 percent of the sums described in subparagraph (A) to designated State agencies for such in-service training.".

(f) RELATIONSHIP TO TRAINING ACTIVITIES.—Section 302 (29 U.S.C. 774) (as amended by subsection (c)) is amended by adding at the end the following:

"(i)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund training activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund the training activities described in section 803.

"(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII.".

**SEC. 303. COMMUNITY REHABILITATION PROGRAMS FOR INDIVIDUALS WITH DISABILITIES.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) (29 U.S.C. 772(a)) (as so redesignated by section 301(b)(3)) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

(b) ESTABLISHMENT.—Section 303(b) (29 U.S.C. 772(b)) is amended—

(1) in paragraph (1)—

(A) by striking "training services" and inserting "rehabilitation services or employment support services"; and

(B) by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

"(A) For purposes of this section, vocational rehabilitation services shall include—

"(i) training with a view toward career advancement;

"(ii) training (including on-the-job training) in occupational skills; and

"(iii) services, including rehabilitation technology services, personal assistance services, and supported employment services and extended services, that—

"(I) are related to training described in clause (i) or (ii); and

"(II) are required by the individual to engage in such training."; and

(B) in subparagraph (B)—

(i) by inserting after "(B)" the following new sentence: "Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section.";

(ii) in the second sentence (as placed pursuant to clause (i) of this subparagraph), by striking ", and such allowances" and all that follows and inserting a period; and

(iii) in the last sentence—

(I) by striking "training services" and inserting "vocational rehabilitation services"; and

(II) by striking "gainful and suitable" and inserting "competitive"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "gainful and suitable employment" and inserting "competitive employment, or to place or retain such individual in competitive employment";

(B) in subparagraph (B)—

(i) by striking "suitable for and";

(ii) by striking "training" each place the term appears and inserting "vocational rehabilitation"; and

(iii) by striking "rehabilitation facility" and inserting "community rehabilitation program";

(C) in subparagraph (C), by striking "training" and inserting "vocational rehabilitation"; and

(D) in subparagraph (D), by striking "rehabilitation facility and the training" and inserting "community rehabilitation program and the vocational rehabilitation".

(c) ADDITIONAL GRANTS.—Section 303 (29 U.S.C. 772) is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c) The Commissioner is also authorized to make grants, upon applications approved by the designated State agency, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs."; and

(3) in subsection (d)(1) (as so redesignated by paragraph (1))—

(A) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) by striking "such facilities" and inserting "such programs".

(d) CONFORMING AMENDMENT.—The heading of section 303 (29 U.S.C. 772) is amended by striking "TRAINING" and inserting "REHABILITATION".

**SEC. 304. LOAN GUARANTEES.**

Section 304 (29 U.S.C. 773) (as so redesignated by section 301(b)(3)) is amended—

(1) in the heading for the section, by striking "REHABILITATION FACILITIES" and inserting "COMMUNITY REHABILITATION PROGRAMS";

(2) in subsection (a), by striking "facilities for" and inserting "community rehabilitation"; and

(3) in subsection (b)—

(A) by inserting "under special circumstances and" after "may,"; and

(B) by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

**SEC. 305. COMPREHENSIVE REHABILITATION CENTERS.**

Section 305 (29 U.S.C. 775) is amended—

(1) in subsection (d)(1), by striking "facility" and inserting "center"; and

(2) in subsection (g), by striking "1987," and all that follows and inserting "1993 through 1997.".

**SEC. 306. GENERAL GRANT AND CONTRACT REQUIREMENTS.**

Section 306 (29 U.S.C. 776) is amended—

(1) in subsection (a), by striking "section 302" and inserting "section 303";

(2) in subsection (b)(4), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs";

(3) in subsection (f), by striking "rehabilitation facility" and inserting "facility for a community rehabilitation program"; and

(4) in subsection (h), by striking "establishing facilities" and inserting "developing or improving community rehabilitation programs".

**SEC. 307. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES.**

Section 310 (29 U.S.C. 777) is amended—

(1) by striking "(a)" after "310.";

(2) by striking "and 316" and inserting "312, and 316";

(3) by striking "$15,860,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997."; and

(4) by striking subsection (b).

**SEC. 308. SPECIAL DEMONSTRATION PROGRAMS.**

(a) GRANTS.—Section 311(a) (29 U.S.C. 777a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "and, where appropriate, constructing facilities"; and

(B) by striking "blind or deaf individuals," and all that follows and inserting the following: "individuals who are members of populations that are unserved or underserved by the programs under this Act, individuals who are blind, and individuals who are deaf,";

(2) in paragraph (2), by striking "new careers);" and inserting "new careers and career advancement);";

(3) in paragraph (3), by striking "and, where appropriate, renovating and constructing facilities"; and

(4) by striking the matter after and below paragraph (4).

(b) CERTAIN REQUIREMENTS.—Section 311 (29 U.S.C. 777a) is amended by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d), respectively.

(c) SPECIAL PROJECTS AND DEMONSTRATIONS PROVIDING SUPPORTED EMPLOYMENT.—Section 311(c) (29 U.S.C. 777a(d)) (as so redesignated by subsection (b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(ii) by inserting before the period the following: ", including continuation of determinations of the effectiveness of natural supports or other alternatives to providing extended employment services";

(B) in subparagraph (B)—

(i) by striking "and" before "(iii)"; and

(ii) in clause (iii), by striking "community-based rehabilitation facilities" and inserting "community rehabilitation programs"; and

(C) by adding at the end the following subparagraph:

"(C) Not less than two such grants shall serve individuals who either are low-functioning and deaf or low-functioning and hard-of-hearing.";

(2) in paragraph (3)(A), by striking ", 1988, and on each subsequent June 1" and inserting "of each year"; and

(3) in paragraph (4), by striking "$9,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997.".

(d) MODEL STATEWIDE TRANSITIONAL PLANNING SERVICES.—Section 311(d) (29 U.S.C. 777a(e)) (as so redesignated by subsection (b)) is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(3) in paragraph (3)(A) (as redesignated by paragraph (2) of this subsection)—

(A) by striking clause (ii); and

(B) by striking the clause designation; and

(4) in paragraph (4) (as redesignated by paragraph (2) of this subsection), by striking "$450,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

(e) RELATIONSHIP TO DEMONSTRATION ACTIVITIES.—Section 311 (29 U.S.C. 777a), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(e)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund demonstration programs, projects, and activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund programs, projects, and activities described in section 802.

"(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII.".

**SEC. 309. MIGRATORY WORKERS.**

(a) COLLABORATION.—The first sentence of section 312 (29 U.S.C. 777b) is amended—

(1) by inserting "(a)" after "312."; and

(2) by inserting "to nonprofit agencies working in collaboration with such State agency," after "section 101,".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 312 (29 U.S.C. 777b) is amended by adding at the end the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 through 1997 such sums as may be necessary to carry out this section.".

**SEC. 310. SPECIAL RECREATIONAL PROGRAMS.**

(a) GRANTS.—Section 316(a) (29 U.S.C. 777f(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "part or all" and inserting "the Federal share"; and

(ii) by inserting "employment," before "mobility,"; and

(B) in the second sentence, by inserting "vocational skills development," before "leisure education,";

(2) in paragraph (2), by striking "a minimum of a three-year period." and inserting "a period of not more than 3 years. Such a grant shall not be renewable, except that the Commissioner may renew such a grant if the Commissioner determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations.";

(3) in paragraph (3), by striking "to be made, and that" and all that follows and inserting "to be made."; and

(4) by adding at the end the following new paragraphs:

"(4) To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

"(A) the manner in which the findings and results of the project will be made generally available; and

"(B) the means by which the service program will be continued after Federal assistance ends.

"(5) Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

"(6) The Commissioner shall, not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1992, develop means to objectively evaluate, and encourage the replication of, activities assisted by this section.

"(7) The Commissioner shall require each recipient of a grant under this section to annually prepare and submit a report on the results of the activities assisted by the grant. The Commissioner shall not make financial assistance avail-

able to a grant recipient for a subsequent year until the Commissioner has received and evaluated such a report from the recipient regarding the current year.

"(8) The Commissioner shall annually issue and provide for the dissemination of a report describing the findings and results of programs funded by this section.

"(9) The Federal share of the costs of the recreation programs shall be 100 percent for the first year of the grant, 75 percent for the second year, and 50 percent for the third year.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 316(b) (29 U.S.C. 777f(b)) is amended by striking "$2,330,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

## TITLE IV—NATIONAL COUNCIL ON DISABILITY

**SEC. 401. ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY.**

(a) IN GENERAL.—Section 400(a) (29 U.S.C. 780(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)";

(B) by inserting after the first sentence the following:

"(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

"(i) organizations representing a broad range of individuals with disabilities; and

"(ii) organizations interested in individuals with disabilities.

"(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs.";

(C) in the last sentence, by striking "At least five members" and inserting "A majority of the members"; and

(D) by adding at the end the following sentence: "The members of the National Council shall be broadly representative of minority and other individuals and groups."; and

(2) by striking paragraph (2) and inserting the following:

"(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

"(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

"(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.".

(b) TERMS.—Section 400(b) (29 U.S.C. 780(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis."; and

(2) by striking paragraph (2) and inserting the following:

"(2)(A) No member of the Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. Members may serve after the expiration of their terms until their successors have taken office.

"(B) As used in this paragraph:

"(i) The term 'full term' means a term of 3 years.

"(ii) The term 'date of initial service' means, with respect to a member, the date on which the member is sworn in.".

**SEC. 402. DUTIES OF NATIONAL COUNCIL.**

(a) DUTIES.—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;";

(2) by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (8), (9), and (10);

(3) by inserting after paragraph (3) the following paragraph:

"(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;";

(4) in paragraph (5) (as so redesignated by paragraph (2) of this subsection)—

(A) in subparagraph (A), by striking "all policies, programs, and activities" and inserting "policies, programs, practices, and procedures";

(B) in subparagraph (B), by inserting "and regulations" after "statutes"; and

(C) in the matter following subparagraph (B), by striking "activities, and statutes" and inserting "practices, procedures, statutes, and regulations";

(5) in paragraph (6) (as so redesignated by paragraph (2) of this subsection), by striking "and activities" and all that follows and inserting "practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);";

(6) by inserting after paragraph (6) (as redesignated by paragraph (2) of this subsection) the following paragraph:

"(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);";

(7) in paragraph (8) (as so redesignated by paragraph (2) of this subsection), to read as follows:

"(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies, respecting ways to better promote the policies set forth in section 400(a)(2);";

(8) in paragraph (9) (as so redesignated by paragraph (2) of this subsection), to read as follows:

"(9) not later than March 31 of each year, prepare and submit to the Congress and the President a report containing a summary of the activities and accomplishments of the Council with respect to the duties described in paragraphs (1) through (8);";

(9) in paragraph (10) (as redesignated by paragraph (2) of this subsection), by striking the period and inserting "; and"; and

(10) by adding at the end the following:

"(11) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.".

(b) REPORT.—Section 401(b) (29 U.S.C. 781(b)) is amended to read as follows:

"(b)(1) Not later than October 31, 1993, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled 'National Disability Policy: A Progress Report'.

"(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

"(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.".

**SEC. 403. COMPENSATION OF NATIONAL COUNCIL MEMBERS.**

Section 402(a) (29 U.S.C. 782(a)) is amended by striking "rate of basic pay payable for grade GS–18 of the General Schedule under section 5332" and inserting "rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

**SEC. 404. STAFF OF NATIONAL COUNCIL.**

Section 403(b)(1) (29 U.S.C. 783(b)(1)) is amended by striking "annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332" and inserting "rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

**SEC. 405. ADMINISTRATIVE POWERS OF NATIONAL COUNCIL.**

Section 404 (29 U.S.C. 784) is amended by adding at the end the following subsection:

"(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.".

**SEC. 406. AUTHORIZATION OF APPROPRIATIONS.**

Section 405 (29 U.S.C. 785) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

## TITLE V—RIGHTS AND ADVOCACY

**SEC. 501. RIGHTS AND ADVOCACY.**

(a) TITLE.—Title V (29 U.S.C. 790 et seq.) is amended by striking the title heading and inserting the following:

"TITLE V—RIGHTS AND ADVOCACY".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to the title heading for title V and inserting the following:

"TITLE V—RIGHTS AND ADVOCACY".

**SEC. 502. EFFECT ON EXISTING LAW.**

(a) REPEAL.—Title V (29 U.S.C. 790 et seq.) is amended by repealing section 500.

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 500.

**SEC. 503. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.**

(a) ESTABLISHMENT.—Section 501(a) (29 U.S.C. 791(a)) is amended—

(1) in the first sentence, by striking "the Secretary of Veterans Affairs, and" and inserting "the Director of the Office of Personnel Management, the Secretary of Veterans Affairs"; and

(2) by amending the second sentence to read as follows: "Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons of

the Committee or the Director or Chairman shall serve as the sole chairperson of the Committee, as the Director and Chairman jointly determine, from time to time, to be appropriate.".

(b) STANDARDS.—Section 501 (29 U.S.C. 791) is amended by adding at the end the following new subsection:

"(g) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.".

**SEC. 504. REFERENCES TO THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.**

(a) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(1) in the matter preceding subparagraph (A) of subsection (a)(1), by striking "the 'Board'" and inserting "the 'Access Board'";

(2) by striking "the Board" each place the term appears and inserting "the Access Board"; and

(3) by striking "The Board" each place the term appears and inserting "The Access Board".

(b) COMPOSITION.—Section 502(a) (29 U.S.C. 792(a)) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "Twelve" and inserting "Thirteen"; and

(ii) by striking "six" and inserting "at least a majority"; and

(B) in subparagraph (B), by inserting after clause (xi) the following:

"(xii) Department of Commerce.";

(2) in paragraph (2)(A)—

(A) in the first sentence—

(i) by inserting "(i)" after "(A)"; and

(ii) by striking "three years" and inserting "4 years, except as provided in clause (ii)";

(B) in the second sentence, by striking "four" and inserting "at least three"; and

(C) by adding at the end the following:

"(ii)(I) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

"(II) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

"(III) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

"(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.";

(3) in paragraph (3), by striking "such an" and inserting "a Federal"; and

(4) in paragraph (5)(A), by striking "the daily rate prescribed for GS–18 under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

(c) FUNCTION.—Section 502(b) (29 U.S.C. 792(b)) is amended to read as follows:

"(b) It shall be the function of the Access Board to—

"(1) ensure compliance with the standards prescribed pursuant to the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 4151 et seq.) (including the application of such Act to the United States Postal Service), including enforcing all standards under such Act, and ensuring that all waivers and modifications to the standards are based on findings of fact and are not inconsistent with the provisions of this section;

"(2) develop advisory guidelines for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this title or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq. and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

"(3) establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990;

"(4) promote accessibility throughout all segments of society;

"(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

"(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in paragraph (5);

"(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

"(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

"(9) make to the President and to the Congress such recommendations for legislative and administrative changes as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5); and

"(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities.".

(d) INVESTIGATIONS AND HEARINGS.—Section 502(d) (29 U.S.C. 792(d)) is amended—

(1) in paragraph (1), in the first sentence—

(A) by striking "In carrying out" and all that follows through "shall conduct" and inserting "The Access Board shall conduct"; and

(B) by striking "insure" and inserting "ensure"; and

(2) by striking paragraph (3).

(e) INTERAGENCY AGREEMENTS.—Section 502(f) (29 U.S.C. 792(f)) is amended—

(1) by striking "(f) The departments" and inserting the following:

"(f)(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

"(B) Any funds appropriated to such a department or agency for the purpose of providing technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

"(C) The Access Board may arrange to carry out the technical assistance responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

"(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

"(2) The departments"; and

(2) in the second sentence of paragraph (2) (as so designated by paragraph (1) of this subsection)—

(A) by striking "subsection" and inserting "paragraph";

(B) by striking "Secretary" and inserting "Chairperson"; and

(C) by striking "the daily pay rate for a person employed as a GS–18 under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

(f) REPORT.—Section 502(g) (29 U.S.C. 792(g)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as so designated by paragraph (1) of this subsection)—

(A) in the second sentence, by striking "clauses (5) and (6) of subsection (b) of this section" and inserting "paragraphs (8) and (9) of such subsection"; and

(B) by striking the third sentence and all that follows; and

(3) by adding at the end the following:

"(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of the Act commonly known as the Architectural Barriers Act of 1968 (42 U.S.C. 4157(b)), transmit the report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

(g) REPORT CONTAINING ASSESSMENT.—Section 502(h) (29 U.S.C. 792(h)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated by paragraph (2) of this subsection), by striking the second and third sentences; and

(4) by adding at the end the following paragraph:

"(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (5) and (7) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States.

"(B) The Access Board shall publish regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 502(i) (29 U.S.C. 792(i)) is amended by striking "fiscal years 1987 through 1992" and all that follows and inserting "fiscal years 1993 through 1997.".

**SEC. 505. EMPLOYMENT UNDER FEDERAL CONTRACTS.**

(a) CONTRACTS.—Section 503(a) (29 U.S.C. 793(a)) is amended—

(1) by striking "$2,500" each place the term appears and inserting "$10,000"; and

(2) in the first sentence, by striking ", in employing persons to carry out such contract,".

(b) WAIVER.—Section 503(c) (29 U.S.C. 793(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this Act.

"(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.".

(c) STANDARDS AND PROCEDURES.—Section 503 (29 U.S.C. 793) is amended by adding at the end the following:

"(d) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

"(e) The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.".

**SEC. 506. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS.**

Section 504 (29 U.S.C. 794) is amended by adding at the end the following new subsection:

"(d) The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.".

**SEC. 507. SECRETARIAL RESPONSIBILITIES.**

(a) ACCESS.—Subsections (a) and (c) of section 506 (29 U.S.C. 794b) are amended by inserting "Access" before "Board" each place the term appears.

(b) COMMUNITY REHABILITATION PROGRAMS.—Section 506(a)(1) (29 U.S.C. 794b(a)(1)) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(c) COMPENSATION.—Section 506(b) (29 U.S.C. 794b(b)) is amended by striking "the rate of basic pay payable for grade GS–18 of the General Schedule, under section 5332" and inserting "the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

(d) CONFORMING AMENDMENT.—Section 506(c) (29 U.S.C. 794b(c)) is amended by striking "502(h)(2)" and inserting "502(h)(1)".

**SEC. 508. INTERAGENCY DISABILITY COORDINATING COUNCIL.**

(a) IN GENERAL.—Section 507 (29 U.S.C. 794c) is amended to read as follows:

**"SEC. 507. INTERAGENCY DISABILITY COORDINATING COUNCIL.**

"(a) ESTABLISHMENT.—There is hereby established an Interagency Disability Coordinating Council (hereafter in this section referred to as the 'Council') composed of the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Attorney General, the Director of the Office of Personnel Management, the Chairperson of the Equal Employment Opportunity Commission, the Chairperson of the Architectural and Transportation Barriers Compliance Board, and such other officials as may be designated by the President.

"(b) DUTIES.—The Council shall—

"(1) have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder;

"(2) be responsible for developing and implementing agreements, policies, and practices designed to coordinate operations, functions, and jurisdictions of the various departments and agencies of the Federal Government responsible for promoting the full integration into society, independence, and productivity of individuals with disabilities; and

"(3) carry out such studies and other activities, subject to the availability of resources, with advice from the National Council on Disability, in order to identify methods for overcoming barriers to integration into society, independence, and productivity of individuals with disabilities.

"(c) REPORT.—On or before July 1 of each year, the Interagency Disability Coordinating Council shall prepare and submit to the President and to the Congress a report of the activities of the Council designed to promote and meet the employment needs of individuals with disabilities, together with such recommendations for legislative and administrative changes as the Council concludes are desirable to further promote this section, along with any comments submitted by the National Council on Disability as to the effectiveness of such activities and recommendations in meeting the needs of individuals with disabilities. Nothing in this section shall impair any responsibilities assigned by any Executive order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the item relating to section 507 and inserting the following item:

"Sec. 507. Interagency Disability Coordinating Council.".

**SEC. 509. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.**

(a) GUIDELINES.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

**"SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.**

"(a) GUIDELINES.—The Secretary, through the Director of the National Institute on Disability and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with disabilities can produce information and data, and have access to information and data, comparable to the information and data, and access, respectively, of individuals who are not individuals with disabilities. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

"(b) COMPLIANCE.—Each Federal agency shall comply with the guidelines established under this section.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 508 and inserting the following:

"Sec. 508. Electronic and information technology accessibility guidelines.".

**SEC. 510. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.**

(a) IN GENERAL.—Title V (29 U.S.C. 790 et seq.) is amended by adding at the end the following new section:

**"SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.**

"(a) PURPOSE.—The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

"(1) are ineligible for client assistance programs under section 112; and

"(2) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

"(b) APPROPRIATIONS LESS THAN $5,500,000.—

"(1) ALLOTMENTS.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a).

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

"(1) TECHNICAL ASSISTANCE.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds $5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

"(2) ALLOTMENTS.—For any such fiscal year, after the reservation required by paragraph (1) has been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for such individuals.

"(3) SYSTEMS WITHIN STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than $100,000 or one-third of one percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than $100,000 or one-third of one percent of such remainder shall be increased to the greater of the two amounts.

"(4) SYSTEMS WITHIN OTHER JURISDICTIONS.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted not less than $50,000 for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(5) ADJUSTMENT FOR INFLATION.—

"(A) STATES.—For purposes of determining the minimum amount of an allotment under paragraph (3)(B), the amount $100,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(B) CERTAIN TERRITORIES.—For purposes of determining the minimum amount of an allotment under paragraph (4)(B), the amount $50,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(d) PROPORTIONAL REDUCTION.—Amounts necessary to provide allotments to systems within States in accordance with subsection (c)(3)(B) as increased under subsection (c)(5), or to provide allotments in accordance with subsection (c)(4)(B) as increased in accordance with subsection (c)(5), shall be derived by proportionately reducing the allotments of the remaining systems within States under subsection (c)(3), but with such adjustments as may be necessary to prevent the allotment of any such remaining systems within States from being thereby reduced to less than the greater of $100,000 or one-third of one percent of the sums made available for purposes of this section for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(5).

"(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

"(f) APPLICATION.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

"(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

"(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

"(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) or client assistance programs under section 112;

"(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State;

"(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, their representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

"(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

"(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system; and

"(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided.

"(g) CARRYOVER AND DIRECT PAYMENT.—

"(1) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State involved under this section, unless the State provides otherwise.

"(2) CARRYOVER.—Any amount paid to a State for a fiscal year that remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year for the purposes for which such amount was paid.

"(h) LIMITATION ON DISCLOSURE REQUIREMENTS.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(i) ELIGIBILITY FOR ASSISTANCE.—As used in this section, the term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

"(j) ADMINISTRATIVE COST.—An eligible system may not use more than 5 percent of any allotment under subsection (c) for the cost of administration of the system required by this section.

"(k) DELEGATION.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

"(l) REPORT.—The Commissioner shall annually prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 508 the following item:

"Sec. 509. Protection and advocacy of individual rights.".

## TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

### Subtitle A—Community Service Employment Pilot Program for Individuals With Disabilities

**SEC. 601. PILOT PROGRAM.**

(a) DEFINITION.—Section 611(a) (29 U.S.C. 795(a)) is amended by striking "section 7(8)" and inserting "section 7(8)(A)".

(b) PERSONAL ASSISTANCE SERVICES.—Section 611(b)(1)(K) (29 U.S.C. 795(b)(1)(K)) is amended by striking "attendant care" and inserting "personal assistance services".

**SEC. 602. TREATMENT OF PERSONAL ASSISTANCE SERVICES COSTS.**

Section 613(c) (29 U.S.C. 795b(c)) is amended by striking "attendant care" and inserting "personal assistance services".

**SEC. 603. DEFINITIONS.**

Section 616 (29 U.S.C. 795e) is amended—

(1) by adding "and" at the end of paragraph (1);

(2) by striking "; and" at the end of paragraph (2) and inserting a period; and

(3) by striking paragraph (3).

**SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

Section 617 (29 U.S.C. 795f) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

### Subtitle B—Projects With Industry

**SEC. 611. PROJECTS WITH INDUSTRY.**

(a) IN GENERAL.—Section 621(a) (29 U.S.C. 795g(a)) is amended to read as follows:

"(a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

"(2) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

"(A) provide for the establishment of business advisory councils, which shall—

"(i) be comprised of—

"(I) representatives of private industry, business concerns, and organized labor; and

"(II) individuals with disabilities and their representatives;

"(ii) identify job and career availability within the community;

"(iii) identify the skills necessary to perform the jobs and careers identified; and

"(iv) prescribe training programs designed to develop appropriate job and career skills for individuals with disabilities;

"(B) provide individuals with disabilities with training in realistic work settings in order to prepare the individuals for employment and career advancement in the competitive market;

"(C) provide job placement and career advancement services;

"(D) to the extent appropriate, provide for—

"(i) the development and modification of jobs and careers to accommodate the special needs of such individuals;

"(ii) the distribution of rehabilitation technology to such individuals; and

"(iii) the modification of any facilities or equipment of the employer that are used primarily by individuals with disabilities; and

"(E) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

"(3) An individual shall be eligible for services described in paragraph (2) if the appropriate designated State unit determines the individual to be an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A). In making such a determination, the unit shall rely on the determination made by the recipient of the grant under which the services are provided, to the extent appropriate and available and consistent with the requirements under this Act. If a designated State unit does not notify a recipient of a grant within 60 days that the determination of the recipient is inappropriate, the recipient of the grant may consider the individual to be eligible.

"(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or their representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect information on—

"(A) the numbers and types of individuals with disabilities served;

"(B) the types of services provided;

"(C) the sources of funding;

"(D) the percentage of resources committed to each type of service provided;

"(E) the extent to which the employment status and earning power of individuals with disabilities changed following services;

"(F) the extent of capacity building activities, including collaboration with business and industry and other organizations, agencies, and institutions;

"(G) a comparison, if appropriate, of activities in prior years with activities in the most recent year; and

"(H) the number of project participants who were terminated from project placements and the duration of such placements.

"(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

"(A) assist employers in hiring individuals with disabilities; or

"(B) improve or develop relationships between—

"(i) grant recipients or prospective grant recipients; and

"(ii) employers or organized labor; or

"(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.".

(b) AGREEMENT.—Section 621(b) (29 U.S.C. 795g(b)) is amended to read as follows:

"(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

"(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

"(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated co-workers of the individual, and that such individuals with disabilities shall not be segregated from their coworkers; and

"(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.".

(c) EVALUATION.—Section 621(d) (29 U.S.C. 795g(d)) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

"(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

"(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations."; and

(2) by redesignating paragraph (4) as paragraph (3).

(d) ADMINISTRATION.—Subsections (e) through (h) of section 621 (29 U.S.C. 795g) are amended to read as follows:

"(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

"(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(2) The Commissioner shall to the extent practicable ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

"(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register in final form indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

"(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

"(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

"(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

"(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not an employee of the Federal Government; and

"(ii) has experience or expertise in conducting projects.

"(D) The Commissioner shall ensure that—

"(i) a representative of the appropriate designated State unit shall participate in the review; and

"(ii) no person shall participate in the review of a grant recipient if—

"(I) the grant recipient provides any direct financial benefit to the reviewer; or

"(II) participation in the review would give the appearance of a conflict of interest.

"(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

"(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grant recipients.

"(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

"(1) entities conducting projects for the purpose of assisting such entities in—

"(A) the improvement of or the development of relationships with private industry or labor; or

"(B) the improvement of relationships with State vocational rehabilitation agencies; and

"(2) entities planning the development of new projects.

"(h) As used in this section:

"(1) The term 'agreement' means an agreement described in subsection (a)(4).

"(2) The term 'project' means a Project With Industry established under subsection (a)(2).

"(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).".

(e) TECHNICAL AMENDMENT.—Section 621 (29 U.S.C. 795g) is amended by striking subsection (i).

**SEC. 612. BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.**

(a) IN GENERAL.—Title VI (29 U.S.C. 795 et seq.) is amended—

(1) in the heading for part B, by striking "AND BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS";

(2) by redesignating section 622 as section 641;

(3) by inserting section 641 (as so redesignated) after section 638; and

(4) by inserting before such section 641 the following:

"PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 641 (as so redesignated by subsection (a)(2) of this section) is amended—

(1) by inserting "(a)" before "The Commissioner"; and

(2) by adding at the end the following:

"(b) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the 1993 through 1997 fiscal years.".

(c) TECHNICAL AMENDMENT.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section—

(1) by striking the item relating to the part heading for part B of title VI and inserting the following:

"PART B—PROJECTS WITH INDUSTRY";

(2) by striking the item relating to section 622; and

(3) by inserting after the item relating to section 638 the following:

"PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES".

"Sec. 641. Business opportunities for individuals with disabilities.".

**SEC. 613. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION.—Title VI (29 U.S.C. 795 et seq.) is amended—

(1) by redesignating section 623 as section 622; and

(2) in section 622 (29 U.S.C. 795i) (as so redesignated by paragraph (1) of this subsection) by striking "section 621, $16,070,000" and all that follows and inserting "this part, such sums as may be necessary for each of fiscal years 1993 through 1997.".

(b) TABLE OF CONTENTS.—The table of contents relating to title VI is amended by inserting after the item relating to section 621 the following:

"Sec. 622. Authorization of appropriations.".

### Subtitle C—Supported Employment Services for Individuals With Severe Disabilities

**SEC. 621. SUPPORTED EMPLOYMENT.**

(a) PROGRAM.—Title VI is amended by striking part C (29 U.S.C. 795j et seq.) and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

**"SEC. 631. PURPOSE.**

"It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

**"SEC. 632. ALLOTMENTS.**

"(a) IN GENERAL.—

"(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

"(A) no State shall receive less than $250,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

"(B) if the sums appropriated to carry out this part for the fiscal year exceed by $1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than $300,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

**"SEC. 633. AVAILABILITY OF SERVICES.**

"Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, title I, or subsection (c) or (f) of section 311 may not be used to provide extended services to individuals who are eligible under this part or title I.

**"SEC. 634. ELIGIBILITY.**

"An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

"(1) the individual is eligible for vocational rehabilitation services;

"(2) the individual is determined to be an individual with the most severe disabilities; and

"(3) a comprehensive assessment of rehabilitation needs of the individual provided under section 102(b)(1)(A), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate rehabilitation objective for the individual.

**"SEC. 635. STATE PLAN.**

"(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

"(b) CONTENTS.—Each such plan supplement shall—

"(1) designate each agency that the State designated under section 101(a)(1) as the agency to administer the program assisted under this part;

"(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(5), with respect to the rehabilitation and career needs of individuals with severe disabilities and the need for supported employment services, including needs related to coordination and use of information within the State relating to section 618(b)(1)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1418(b)(1)(C));

"(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

"(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

"(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

"(6) provide assurances that—

"(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

"(B) that the comprehensive assessments of individuals with severe disabilities conducted under section 102(b)(1)(A) and funded under title I will include consideration of supported employment as an appropriate rehabilitation objective;

"(C) an individualized written rehabilitation program, as required by section 102, will be developed and updated using funds under title I in order to—

"(i) specify the supported employment services to be provided;

"(ii) specify the expected extended services needed; and

"(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized written rehabilitation program is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

"(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized written rehabilitation program;

"(E) services provided under an individualized written rehabilitation program will be coordinated with services provided under other individualized plans established under other Federal or State programs;

"(F) to the extent jobs skills training is provided, the training will be provided on-site; and

"(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of individuals with the most severe disabilities;

"(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

"(8) contain such other information and be submitted in such manner as the Commissioner may require.

**"SEC. 636. RESTRICTION.**

"Each State agency designated under section 635(b)(1) shall collect the client information required by section 13 separately for supported employment clients under this part and for supported employment clients under title I.

**"SEC. 637. SAVINGS PROVISION.**

"(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

"(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

**"SEC. 638. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1993 through 1997.".

(b) TABLE OF CONTENTS.—The table of contents relating to title VI is amended by striking the items relating to part C and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"Sec. 631. Purpose.
"Sec. 632. Allotments.
"Sec. 633. Availability of services.
"Sec. 634. Eligibility.
"Sec. 635. State plan.
"Sec. 636. Restriction.
"Sec. 637. Savings provision.
"Sec. 638. Authorization of appropriations.".

## TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

**SEC. 701. SERVICES AND CENTERS.**

The Act is amended—

(1) by striking title VII (29 U.S.C. 796 et seq.); and

(2) by adding at the end the following new title:

## "TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

### "CHAPTER 1—INDIVIDUALS WITH SEVERE DISABILITIES

"PART A—GENERAL PROVISIONS

**"SEC. 701. PURPOSE.**

"The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

"(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

"(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

"(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part C of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal programs, and programs funded through non-Federal sources.

**"SEC. 702. DEFINITIONS.**

"As used in this chapter:

"(1) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

"(A) is designed and operated within a local community by individuals with disabilities; and

"(B) provides an array of independent living services.

"(2) CONSUMER CONTROL.—The term 'consumer control' means, with respect to an entity, that the entity vests power and authority in individuals with disabilities.

**"SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.**

"Services may be provided under this chapter to any individual with a severe disability, as defined in section 7(15)(B).

**"SEC. 704. STATE PLAN.**

"(a) IN GENERAL.—

"(1) REQUIREMENT.—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

"(2) JOINT DEVELOPMENT.—The plan under paragraph (1) shall be jointly developed and signed by—

"(A) the director of the designated State unit; and

"(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

"(3) PERIODIC REVIEW AND REVISION.—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the provision of State independent living services;

"(B) the development and support of a statewide network of centers for independent living; and

"(C) working relationships between—

"(i) programs providing independent living services and independent living centers; and

"(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

"(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

"(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

"(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

"(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

"(2) provide administrative support services for programs under parts B and C;

"(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

"(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

"(d) OBJECTIVES.—The plan shall—

"(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

"(2) explain how such objectives are consistent with and further the purpose of this chapter.

"(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this chapter to individuals with severe disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

"(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

"(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.

"(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

"(i) COOPERATION, COORDINATION, AND WORKING RELATIONSHIPS AMONG VARIOUS ENTITIES.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

"(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

"(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

"(j) COORDINATION OF SERVICES.—The plan shall describe how services funded under this chapter will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

"(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

"(l) OUTREACH.—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

"(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—

"(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

"(2) take affirmative action to employ and advance in employment qualified individuals with

*disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;*

*"(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;*

*"(4)(A) maintain records that fully disclose—*

*"(i) the amount and disposition by such recipient of the proceeds of such financial assistance;*

*"(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and*

*"(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;*

*"(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;*

*"(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and*

*"(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;*

*"(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and*

*"(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.*

*"(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.*

***"SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.***

*"(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within another State agency.*

*"(b) COMPOSITION AND APPOINTMENT.—*

*"(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments, within 90 days after the date of enactment of the Rehabilitation Act Amendments of 1992. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.*

*"(2) COMPOSITION.—The Council shall include—*

*"(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State; and*

*"(B) as ex officio, nonvoting members—*

*"(i) a representative from the designated State unit; and*

*"(ii) representatives from other State agencies that provide services for individuals with disabilities.*

*"(3) ADDITIONAL MEMBERS.—The Council may include—*

*"(A) other representatives from centers for independent living;*

*"(B) parents and guardians of individuals with disabilities;*

*"(C) advocates of and for individuals with disabilities;*

*"(D) representatives from private businesses;*

*"(E) representatives from organizations that provide services for individuals with disabilities; and*

*"(F) other appropriate individuals.*

*"(4) QUALIFICATIONS.—The Council shall be composed of members—*

*"(A) who provide statewide representation;*

*"(B) who represent a broad range of individuals with disabilities;*

*"(C) who are knowledgeable about centers for independent living and independent living services; and*

*"(D) a majority of whom are persons who are—*

*"(i) individuals with disabilities described in section 7(8)(B); and*

*"(ii) not employed by any State agency or center for independent living.*

*"(5) CHAIRPERSON.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.*

*"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.*

*"(6) TERMS OF APPOINTMENT.—*

*"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—*

*"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and*

*"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.*

*"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.*

*"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.*

*"(c) DUTIES.—The Council shall—*

*"(1) jointly develop and submit (in conjunction with the designated State agency) the State plan required in section 704;*

*"(2) monitor, review, and evaluate the implementation of the State plan;*

*"(3) coordinate activities with the State Rehabilitation Advisory Council established under section 105 and councils that address the needs of specific disability populations and issues under other Federal law;*

*"(4) ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and*

*"(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.*

*"(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.*

*"(e) PLAN.—*

*"(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council under this section, with funds made available under this chapter and part C of title I and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.*

*"(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.*

*"(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.*

*"(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.*

*"(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.*

***"SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.***

*"(a) APPROVAL OF STATE PLANS.—*

*"(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.*

*"(2) PROCEDURES.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.*

*"(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—*

*"(i) to the Secretary shall be deemed to be references to the Commissioner; and*

*"(ii) to section 101 shall be deemed to be references to section 704.*

*"(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725.*

*"(c) ON-SITE COMPLIANCE REVIEWS.—*

*"(1) REVIEWS.—The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers for independent living that receive funds under part C and shall periodically conduct such a review of each such center. The Commissioner shall select such centers for review on a random basis.*

*"(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—*

*"(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;*

*"(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and*

*"(C) ensure that at least one member of a team conducting such a review shall be an individual who—*

*"(i) is not a government employee; and*

*"(ii) has experience in the operation of centers for independent living.*

*"(d) REPORTS.—The Commissioner shall include, in the annual report required under sec-*

tion 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of on-site compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter.

"PART B—INDEPENDENT LIVING SERVICES

**"SEC. 711. ALLOTMENTS.**

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) ADJUSTMENT FOR INFLATION.—For purposes of determining the minimum amount of an allotment under paragraph (1)(C), the amount $275,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(b) PROPORTIONAL REDUCTION.—Subject to subsection (a)(1)(B), amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B), or in accordance with subsection (a)(1)(C) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2)(B), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $275,000 or one-third of one percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

**"SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.**

"(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(3) DETERMINATION.—For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

**"SEC. 713. AUTHORIZED USES OF FUNDS.**

"The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

"(1) to provide independent living services to individuals with severe disabilities;

"(2) to demonstrate ways to expand and improve independent living services;

"(3) to support the operation of centers for independent living;

"(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

"(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

"(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

"(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

**"SEC. 714. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"PART C—CENTERS FOR INDEPENDENT LIVING

**"SEC. 721. PROGRAM AUTHORIZATION.**

"(a) IN GENERAL.—From the funds appropriated for fiscal year 1994 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).

"(b) TRAINING.—

"(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of such funds.

"(2) ALLOCATION.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

"(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

"(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

"(c) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C) and after the reservation required by subsection (b) has been made, from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal

year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

"(i) if such excess is not less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $450,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $450,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts;

"(ii) if such excess is not less than $4,000,000 and is less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $400,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $400,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts; and

"(iii) if such excess is less than $4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts described in clause (ii).

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the remainder for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Commissioner shall increase the minimum allotment under paragraph (1)(C) by such percentage change in the Consumer Price Index For All Urban Consumers.

"(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"(e) TRANSITION RULES.—

"(1) RESERVATION.—

"(A) FISCAL YEAR 1993.—For fiscal year 1993, the Commissioner shall first reserve from the funds appropriated to carry out this part, not less than 1.8 percent, and not more than 2 percent, of such funds, whichever is greater, for training, technical assistance, and transition assistance, to centers for independent living.

"(B) TRAINING AND TECHNICAL ASSISTANCE.—From the funds reserved under subparagraph (A), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living, to—

"(i) provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living; and

"(ii) provide such transition assistance to assist the centers with efforts to achieve compliance with the standards and assurances set forth in this part.

"(C) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this paragraph, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training, technical assistance, and transition assistance and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(D) PROHIBITION ON COMBINED FUNDS.—An entity that receives funds under this paragraph shall comply with subsection (b)(5) with respect to the funds.

"(2) IN GENERAL.—

"(A) GRANTS.—After the reservation required by paragraph (1) has been made, and from the remainder of the funds appropriated for fiscal year 1993 to carry out this part, the Secretary is authorized to make grants to eligible agencies described in subparagraph (B) to operate centers for independent living.

"(B) AGENCIES.—

"(i) FISCAL YEAR 1992 RECIPIENTS.—Private nonprofit agencies that received funding directly or through subgrants or contracts under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 shall receive assistance under this part for fiscal year 1993 if the agencies submit applications that demonstrate to the satisfaction of the Commissioner that as of October 1, 1993 such agencies will meet the standards described in section 725(b) and that contain the assurances described in section 725(c). In determining whether a center meets the standards described in section 725(b), the Commissioner will look for information that shows how the center will meet each standard. The Commissioner shall consider any data on past performance that is provided by the agency that shows how the center has been meeting the standards.

"(ii) OTHER AGENCIES.—Private nonprofit agencies that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 may receive assistance under this part for fiscal year 1993 if the agencies submit satisfactory applications for fiscal year 1993. In determining whether an application is satisfactory, the Secretary shall use the criteria for selection of centers specified in section 722(d)(2)(B).

"(C) PRIORITY.—The Secretary may not award funds to a private nonprofit agency that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 until the Secretary has funded all agencies within each State that received such funding and have submitted applications described in subparagraph (B)(i) for fiscal year 1993.

**"SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel and the involvement of individuals with severe disabilities;

"(v) budgets and cost-effectiveness;

"(vi) an evaluation plan; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs,

consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

**"SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.**

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) INITIAL YEAR.—

"(i) DETERMINATION.—Beginning on October 1, 1993, the director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B).

"(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to the State in accordance with section 722.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with severe disabilities by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (h), the date of any final decision under subsection (h),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

"(g) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall conduct on-site compliance review of centers for independent living. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

"(h) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

**"SEC. 724. CENTERS OPERATED BY STATE AGENCIES.**

"(a) FISCAL YEAR 1993.—

"(1) IN GENERAL.—Notwithstanding section 702(1), if—

"(A) no nonprofit private agency—

"(i) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(ii) obtains approval of the application under section 722 or 723; and

"(B) a State directly operated such a center in fiscal year 1992 with funds provided under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992,

the State may apply to the Commissioner for assistance under section 721(e)(2) for the conduct, administration, and evaluation of such a center.

"(2) COMPLIANCE.—A State that receives assistance with respect to a center in accordance with paragraph (1) shall ensure that the center shall comply with all of the requirements of this part, other than the requirement that the center be a private nonprofit agency.

"(b) FISCAL YEAR 1994 AND SUCCEEDING FISCAL YEARS.—A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

"(1) no nonprofit private agency—

"(A) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(B) obtains approval of the application under section 722 or 723; or

"(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

**"SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.**

"(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

"(b) STANDARDS.—

"(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access of individuals with severe disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities, including individuals with disabilities who are members of populations that are unserved or underserved by programs under this Act). Eligibility for services at any center for independent living shall not be based on the presence of any one or more specific severe disabilities.

"(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with severe disabilities who seek such assistance by the center.

"(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with severe disabilities.

"(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services specified in section 7(30)(B).

"(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with severe disabilities.

"(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

"(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with severe disabilities;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with severe disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

"(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with severe disabilities receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with severe disabilities receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with severe disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with severe disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with severe disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

**"SEC. 726. DEFINITIONS.**

"As used in this part, the term 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

**"SEC. 727. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.".

**SEC. 702. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) CENTERS FOR INDEPENDENT LIVING.—The provisions of part C of chapter 1 of title VII of the Rehabilitation Act of 1973 (as added by section 701 of this Act), shall not apply with respect to fiscal year 1992 for programs receiving assistance under part B of such chapter, as in effect on the day before the date of enactment of this Act. The provisions of such part B shall continue to apply for such programs with respect to fiscal year 1992.

(c) STATE PLAN.—The Secretary of Education shall implement the provisions of section 704 of the Rehabilitation Act of 1973 (as amended by section 701 of this Act), as soon as is practicable after the date of enactment of this Act, consistent with the effective and efficient administration of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), but not later than October 1, 1993.

**SEC. 703. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.**

(a) SERVICES.—Title VII (29 U.S.C. 796 et seq.) is amended by adding at the end the following:

**"CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND**

**"SEC. 751. DEFINITION.**

"For purposes of this chapter, the term 'older individual who is blind' means an individual age 55 or older whose severe visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

**"SEC. 752. PROGRAM OF GRANTS.**

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

"(2) DESIGNATED STATE UNIT.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(1)(A)(i).

"(b) CONTINGENT COMPETITIVE GRANTS.—Beginning with fiscal year 1994, in the case of any fiscal year for which the amount appropriated under section 753 is less than $13,000,000, grants under subsection (a) shall be discretionary grants made on a competitive basis to States.

"(c) CONTINGENT FORMULA GRANTS.—

"(1) IN GENERAL.—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than $13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

"(2) ALLOTMENTS.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

"(d) SERVICES GENERALLY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

"(1) providing independent living services to older individuals who are blind;

"(2) conducting activities that will improve or expand services for such individuals; and

"(3) conducting activities to help improve public understanding of the problems of such individuals.

"(e) INDEPENDENT LIVING SERVICES.—Independent living services for purposes of subsection (d)(1) include—

"(1) services to help correct blindness, such as—

"(A) outreach services;

"(B) visual screening;

"(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(D) hospitalization related to such services;

"(2) the provision of eyeglasses and other visual aids;

"(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

"(4) mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

"(5) guide services, reader services, and transportation;

"(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

"(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

"(8) other independent living services, as defined in section 7(30).

"(f) MATCHING FUNDS.—

"(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) 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.

"(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

"(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

"(i) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4)).

"(2) CONTENTS.—An application for a grant under this section shall contain—

"(A) an assurance that the designated State unit described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the designated State unit operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

"(i) the number and types of older individuals who are blind and are receiving services;

"(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

"(iii) the sources and amounts of funding for the operation of each project or program;

"(iv) the amounts and percentages of resources committed to each type of service provided;

"(v) data on actions taken to employ, and advance in employment, qualified individuals with severe disabilities, including older individuals who are blind; and

"(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

"(B) an assurance that the designated State unit will—

"(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

"(ii) engage in—

"(I) capacity-building activities, including collaboration with other agencies and organizations;

"(II) activities to promote community awareness, involvement, and assistance; and

"(III) outreach efforts; and

"(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

"(j) AMOUNT OF FORMULA GRANT.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

"(A) the amount determined under paragraph (2); and

"(B) the amount determined under paragraph (3).

"(2) MINIMUM ALLOTMENT.—

"(A) STATES.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

"(i) $225,000; and

"(ii) an amount equal to one-third of one percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

"(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

"(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

"(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

"(4) DISPOSITION OF CERTAIN AMOUNTS.—

"(A) GRANTS.—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

"(B) AMOUNTS.—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

"(i) the failure of any State to submit an application under subsection (i);

"(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

"(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

"(C) CONDITIONS.—The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

**"SEC. 753. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1993 through 1997.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to title VII and inserting the following:

"TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

"CHAPTER 1—INDIVIDUALS WITH SEVERE DISABILITIES

"PART A—GENERAL PROVISIONS

"Sec. 701. Purpose.
"Sec. 702. Definitions.
"Sec. 703. Eligibility for receipt of services.
"Sec. 704. State plan.
"Sec. 705. Statewide Independent Living Council.
"Sec. 706. Responsibilities of the Commissioner.

"PART B—INDEPENDENT LIVING SERVICES

"Sec. 711. Allotments.
"Sec. 712. Payments to States from allotments.
"Sec. 713. Authorized uses of funds.
"Sec. 714. Authorization of appropriations.

"PART C—CENTERS FOR INDEPENDENT LIVING

"Sec. 721. Program authorization.
"Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.
"Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
"Sec. 724. Centers operated by State agencies.
"Sec. 725. Standards and assurances for centers for independent living.
"Sec. 726. Definitions.
"Sec. 727. Authorization of appropriations.

"CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

"Sec. 751. Definition.
"Sec. 751. Program of grants.
"Sec. 752. Authorization of appropriations.".

## TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

**SEC. 801. SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS.**

(a) IN GENERAL.—The Act (29 U.S.C. 701 et seq.) is amended by adding at the end the following title:

## "TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

**"SEC. 801. AUTHORIZATION OF APPROPRIATIONS.**

"(a) DEMONSTRATION PROJECTS.—There are authorized to be appropriated to carry out section 802, such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(b) TRAINING INITIATIVES.—There are authorized to be appropriated to carry out section 803, such sums as may be necessary for each of the fiscal years 1993 through 1997.

**"SEC. 802. DEMONSTRATION ACTIVITIES.**

"(a) TRANSPORTATION SERVICES GRANTS.—

"(1) GRANTS.—The Commissioner shall make grants to States and to public or nonprofit agencies and organizations for the purpose of providing transportation services to individuals with disabilities who—

"(A)(i) are employed or seeking employment; or

"(ii) are receiving vocational rehabilitation services from public or private organizations; and

"(B) reside in geographic areas in which fixed route public transportation or comparable paratransit service is not available.

"(2) USE OF GRANT.—The Commissioner may make a grant under this subsection only if the applicant involved agrees that transportation services under this subsection will be provided on a regular and continuing basis between—

"(A) the home of the individual; and

"(B) the place of employment of the individual, the place where the individual is seeking employment, or the place where the individual is receiving vocational rehabilitation services.

"(3) CHARGES.—The Commissioner may make a grant under paragraph (1) only if the applicant involved agrees that, in providing transportation services under this subsection—

"(A) a charge for the transportation will be imposed on each employed eligible individual who uses the transportation; and

"(B) the amount of the charge for an instance of use of the transportation for the distance involved will be in a fair and reasonable amount that is consistent with fees for comparable services in comparable geographic areas.

"(4) REPORT.—The Commissioner may make a grant under this subsection only if the applicant involved agrees to prepare and submit to the Commissioner, not later than December 31 of the fiscal year following the fiscal year for which the grant is made, a report containing—

"(A) a description of the goals of the program carried out with the grant;

"(B) a description of the activities and services provided under the program;

"(C) a description of the number of eligible individuals served under the program;

"(D) a description of methods used to ensure that the program serves the eligible individuals most in need of the transportation services provided under the program; and

"(E) such additional information as the Commissioner may require.

"(5) CONSTRUCTION.—Nothing in this subsection may be construed as limiting the rights or responsibilities of any individual under any other provision of this Act, under the Americans with Disabilities Act of 1990, or under any other provision of law.

"(b) PROJECTS TO ACHIEVE HIGH QUALITY PLACEMENTS.—

"(1) SPECIAL PROJECTS AND DEMONSTRATIONS.—The Commissioner shall make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations related to vocational rehabilitation outcomes. Such projects and demonstrations may include activities providing alternatives to case closure practice and identifying and implementing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with the most severe disabilities.

"(2) CERTAIN REQUIREMENTS.—Each recipient of such a grant shall—

"(A) identify, develop, and test exemplary models that can be replicated; and

"(B) identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities.

"(c) EARLY INTERVENTION DEMONSTRATION PROGRAMS.—

"(1) GRANTS.—The Commissioner shall make grants to public or nonprofit agencies and organizations to carry out demonstration programs designed to demonstrate the utility of early intervention in furnishing vocational evaluation, training, and counseling services to working adults recently determined to have chronic and progressive diseases that may be severely disabling, such as multiple sclerosis.

"(2) GRANT ACTIVITIES.—In carrying out a demonstration program under paragraph (1), an eligible entity shall conduct a program intended to demonstrate the effectiveness of such early intervention in improving the job retention of the working adults or in facilitating the entry of the working adults to new careers and employment. The demonstration program shall test a number of alternative service systems, including an employer assistance program, a system involving early intervention by State vocational rehabilitation agencies, and a private nonprofit agency joint venture with an employer or State vocational rehabilitation agency.

"(d) TRANSITION DEMONSTRATION PROJECTS.—

"(1) GRANTS.—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstration projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community, including services such as personal assistance services, health maintenance services, counseling, and social and vocational services.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(3) EVALUATION.—An agency or organization that receives a grant under this subsection shall evaluate the effectiveness of such models and prepare and submit to the Commissioner a report containing the evaluation.

"(e) BARRIERS TO SUCCESSFUL REHABILITATION OUTCOMES FOR MINORITIES.—The Commissioner may award grants to public or nonprofit agencies and organizations—

"(1) to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with disabilities from minority backgrounds, and develop and evaluate policy, research, and training strategies for overcoming the barriers;

"(2) to conduct a study to examine the factors that have created significant under- representation of individuals from minority backgrounds in the rehabilitation professions, including such underrepresentation among researchers, and develop and evaluate policy, research, and training strategies for overcoming the underrepresentation; and

"(3) to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with neurological or other related disorders, and examine how the hidden or episodic nature of the disability affects eligibility and the provision of services.

"(f) STUDIES, SPECIAL PROJECTS, AND DEMONSTRATION PROJECTS TO STUDY MANAGEMENT AND SERVICE DELIVERY.—

"(1) GRANTS.—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of conducting studies, special projects, or demonstra-

tion projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this Act.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(g) DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE.—

"(1) GRANTS.—The Commissioner may make grants to States and public or nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

"(2) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the grant only—

"(A) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

"(B) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects;

"(3) APPLICATION.—Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) a description of—

"(i) how the applicant intends to promote increased client choice in the rehabilitation process, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

"(ii) how the applicant intends to ensure that any vocational rehabilitation service or related service is provided by a qualified provider who is accredited or meets such other quality assurance and cost-control criteria as the State may establish; and

"(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

"(B) assurances that a written plan will be established with the full participation of the client, which plan shall, at a minimum, include—

"(i) a statement of the vocational rehabilitation goals to be achieved;

"(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

"(iii) objective criteria, an evaluation procedure, and a schedule, for determining whether such goals are being achieved.

"(4) AWARD OF GRANTS.—In selecting entities to receive grants under paragraph (1), the Commissioner shall take into consideration the—

"(A) diversity of strategies used to increase client choice, including selection among qualified service providers;

"(B) geographic distribution of projects; and

"(C) diversity of clients to be served.

"(5) RECORDS.—Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

"(6) DIRECT SERVICES.—At least 80 percent of the funds awarded for any project under this subsection shall be used for direct services, as specifically chosen by eligible clients.

"(7) EVALUATION.—The Commissioner shall conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost effectiveness of the project, and the effects of increased choice on clients and service providers. The Commissioner may reserve funds for the evaluation for a fiscal year from the amounts appropriated to carry out projects under this subsection for the fiscal year.

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

"(A) DIRECT SERVICES.—The term 'direct services' means vocational rehabilitation services, as described in section 103(a).

"(B) ELIGIBLE CLIENT.—The term 'eligible client' means an individual with a disability, as defined in section 7(8)(A), who is not currently receiving services under an individualized written rehabilitation program established through a designated State unit.

"(h) NATIONAL COMMISSION ON REHABILITATION SERVICES.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Subject to the availability of appropriations, there is hereby established a National Commission on Rehabilitation Services (referred to in this section as the 'National Commission') for the purpose of studying the nature, quality, and adequacy of vocational rehabilitation, independent living, supported employment, research, training, and other programs authorized under this Act, and submitting to the President and to Congress recommendations that will further the successful employment outcomes, independence, and integration of individuals with disabilities into the workplace and community.

"(B) COMPOSITION.—

"(i) QUALIFICATIONS.—The National Commission shall consist of 15 members who are recognized by knowledge, experience, and education as experts in the field of rehabilitation. At least a majority of the members of the National Commission shall be individuals with disabilities representing a cross-section of individuals with different types of disabilities.

"(ii) APPOINTMENT.—Members of the National Commission shall be appointed as follows:

"(I) PRESIDENTIAL APPOINTEES.—Five members shall be appointed by the President, or, if the President delegates the authority to make the appointment, by the Secretary of Education.

"(II) SENATE APPOINTEES.—Five members shall be appointed by the president pro tempore of the Senate, with the advice and approval of the Majority Leader and Minority Leader of the Senate.

"(III) HOUSE OF REPRESENTATIVES APPOINTEES.—Five members shall be appointed by the Speaker of the House of Representatives with the advice and approval of the Majority Leader and Minority Leader of the House of Representatives.

"(C) TERM.—Members shall be appointed for the life of the National Commission.

"(D) VACANCIES.—Any vacancy in the National Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(E) CHAIRPERSON.—The National Commission shall select a Chairperson from among its members.

"(F) MEETINGS.—The National Commission shall meet at the call of the Chairperson, but not less often than four times each year.

"(G) QUORUM.—Ten members of the National Commission shall constitute a quorum.

"(H) COMMITTEES.—The Chairperson, upon approval by the National Commission, may establish such committees as the Chairperson determines to be necessary to fulfill the duties of the National Commission.

"(2) DUTIES.—

"(A) STUDIES AND ANALYSES.—The National Commission shall conduct studies and analyses with respect to—

"(i) the effectiveness of vocational rehabilitation and independent living services in enhancing the employment outcomes of individuals with disabilities;

"(ii) the adequacy of research and training activities in fostering innovative approaches that further the employment of individuals with disabilities;

"(iii) the capacity of supported employment and independent living services in promoting the integration of individuals with disabilities into the workplace and community;

"(iv) methods for enhancing access to services authorized under this Act by minorities who are individuals with disabilities and individuals with disabilities who are members of populations that have traditionally been unserved or underserved by programs under this Act that provide such vocational rehabilitation services and independent living services;

"(v) means for enhancing interagency coordination among Federal and State agencies to promote the maximization of employment-related programs, services, and benefits on behalf of individuals with disabilities; and

"(vi) such other issues as the National Commission may identify as relevant to promoting the employment, independence, and integration of individuals with disabilities.

"(B) POLICY ANALYSES.—The National Commission shall conduct policy analyses to—

"(i) develop options for improving fiscal equity in the allotment of grants under section 110;

"(ii) provide guidance on implementing the order of selection described in section 101(a)(5)(A); and

"(iii) address the shortage of rehabilitation professionals.

"(C) REPORTS.—

"(i) INTERIM REPORT.—Not later than January 30, 1995, the National Commission shall prepare and issue a comprehensive interim report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results of the studies and analyses described in subparagraphs (A) and (B) and specific recommendations for amendments to this Act needed to promote the provision of comprehensive vocational rehabilitation and independent living services on behalf of individuals with disabilities.

"(ii) FINAL REPORT.—Not later than January 30, 1997, the National Commission shall prepare and issue a comprehensive final report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results and recommendations described in clause (i).

"(3) POWERS.—

"(A) HEARINGS.—The National Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the National Commission determines to be necessary to carry out its functions.

"(B) INFORMATION.—

"(i) FEDERAL ENTITIES.—The National Commission may secure directly from any Federal department or agency such information (including statistics) as the National Commission considers necessary to carry out the functions of the National Commission. Upon request of the Chairperson of the National Commission, the head of such department or agency shall furnish such information to the National Commission.

"(ii) OTHER ENTITIES.—The National Commission may secure, directly or by contract or other means, such additional information as the National Commission determines to be necessary from universities, research institutions, foundations, State and local agencies, and other public or private agencies.

"(C) CONSULTATION.—The National Commission is authorized to consult with—

"(i) any organization representing individuals with disabilities;

"(ii) public or private service providers;

"(iii) Federal, State, and local agencies;

"(iv) individual experts;

"(v) institutions of higher education involved in the preparation of vocational rehabilitation services personnel; and

"(vi) such other entities and persons as will aid the National Commission in carrying out its duties.

"(4) COMPENSATION AND TRAVEL EXPENSES.—

"(A) COMPENSATION.—Each member of the National Commission who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the National Commission. Members of the National Commission who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

"(B) TRAVEL EXPENSES.—Each member of the National Commission may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(5) STAFF.—

"(A) APPOINTMENT.—

"(i) STAFF DIRECTOR.—The Chairperson of the National Commission may, without regard to provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate a staff director of the National Commission. The employment of the staff director shall be subject to confirmation by the National Commission. The staff director shall be appointed from among individuals who are experienced in the planning, administration, or operation of vocational rehabilitation and independent living services or programs.

"(ii) ADDITIONAL PERSONNEL.—The staff director of the National Commission may, without regard to provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate such additional personnel as may be necessary, but not more than ten full-time equivalent positions, to enable the National Commission to carry out its duties.

"(B) COMPENSATION.—The Chairperson of the National Commission may fix the compensation of the staff director, and the staff director may fix the compensation of the additional personnel, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, except that the rate of pay for the staff director and other personnel may not exceed the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

"(6) COOPERATION.—The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the national commission in carrying out its duties. The National Commission may utilize the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement, upon the consent of the heads of such agencies.

"(7) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the National Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(8) TERMINATION.—The National Commission shall terminate not later than 90 days following the submission of the final report as described in paragraph (2)(C)(ii).

"(i) MODEL PERSONAL ASSISTANCE SERVICES SYSTEMS.—The Commissioner may award grants to public or nonprofit agencies and organizations to establish model personal assistance services systems and other innovative service programs to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.

"(j) DEMONSTRATION PROJECTS TO UPGRADE WORKER SKILLS.—

"(1) GRANTS.—Consistent with the purposes of section 621, the Commissioner may make grants to partnerships or consortia that include private business concerns or industries to pay for the Federal share of developing and carrying out model demonstration projects for workers with disabilities who need new or upgraded skills to adapt to emerging technologies, work methods, and markets and to ensure that such individuals possess the knowledge and skills necessary to compete in the workplace.

"(2) PERIOD.—Grants made under this subsection shall be for 3-year periods.

"(3) APPLICATION.—Any partnership or consortia desiring to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) information identifying at least one member of the partnership or consortium that is a private business concern or industry; and

"(B) assurances that—

"(i) each member of the eligible partnership or consortium will pay a portion of the non-Federal share of the cost of developing and carrying out the project;

"(ii) the partnership or consortium will carry out all of the activities described in subparagraphs (A) through (E) of section 621(a)(2);

"(iii) the partnership or consortium will disseminate information on the model program conducted;

"(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating the job skills of an individual and assessing the skills that are needed for the individual to compete in the workplace;

"(v) the partnership or consortium will prepare and submit an evaluation report containing data specified by the Commissioner at the end of each project year; and

"(vi) the partnership or consortium will take such steps as are necessary to continue the activities of the project after the period for which Federal assistance is sought.

"(4) DEFINITION.—For the purposes of this subsection, the term 'workers with disabilities' shall mean individuals with disabilities who are working in competitive employment and who need new or upgraded skills to improve their employment and career advancement opportunities.

"(k) MODEL SYSTEMS REGARDING SEVERE DISABILITIES.—The Commissioner may award grants to public or nonprofit agencies and organizations to establish model systems of comprehensive service delivery to individuals with severe disabilities, other than spinal cord injuries, requiring a multidisciplinary system of providing vocational and other rehabilitation services, where the Commissioner determines that the development of such systems is needed.

**"SEC. 803. TRAINING ACTIVITIES.**

"(a) DISTANCE LEARNING THROUGH TELECOMMUNICATIONS.—

"(1) GRANTS.—The Commissioner shall award at least three grants to eligible institutions of higher education, to support the formation of regional partnerships with other public or private entities for the purpose of developing and implementing in-service training programs, including certificate or degree granting programs concerning vocational rehabilitation services and related services, for vocational rehabilitation professionals through the use of telecommunications.

"(2) APPLICATIONS.—Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) a detailed explanation of how the applicant will utilize interactive audio, video, and computer technologies between distant locations to provide in-service training programs to the region;

"(B) a description of how the applicant intends to utilize and build upon existing telecommunications networks within the region to be served;

"(C) a copy of all agreements governing the division of functions within the partnership, including an assurance that all States within the region will be served;

"(D) a copy of a binding commitment entered into between the partnership and each entity that is legally permitted to provide, and from which the partnership is to obtain, the telecommunications services and facilities required for the project, that stipulates that if the partnership receives the grant the entity will provide such telecommunications services and facilities in the area to be served within a reasonable time and at a charge that is in accordance with State law;

"(E) a description of the curriculum to be provided, frequency of providing service, and sites of service;

"(F) a description of the need to purchase or lease—

"(i) computer hardware and software;

"(ii) audio and video equipment;

"(iii) telecommunications terminal equipment; or

"(iv) interactive video equipment;

"(G) an assurance that the partnership will use not less than 75 percent of the amount of the grant for instructional curriculum development and programming; and

"(H) a description of the means by which the project will be evaluated.

"(3) AWARD OF GRANTS.—In awarding grants under paragraph (1), the Commissioner shall take into consideration the sparsity of State populations in the region to be served.

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

"(A) ELIGIBLE ENTITY.—The term 'eligible entity' means any institution of higher education with demonstrated experience in the area of continuing education for vocational rehabilitation personnel.

"(B) INTERACTIVE VIDEO EQUIPMENT.—The term 'interactive video equipment' means equipment used to produce and prepare video and audio signals for transmission between distant locations so that individuals at such locations can see and hear each other, and related equipment.

"(C) REGION.—The term 'region' means one of the ten regions served by the Rehabilitation Services Administration.

"(D) REHABILITATION PROFESSIONALS.—The term 'rehabilitation professionals' means personnel described in section 301(a)(1).

"(b) BRAILLE TRAINING PROJECTS.—

"(1) ESTABLISHMENT.—The Commissioner shall make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of Braille for personnel

providing vocational rehabilitation services or educational services to youth and adults who are blind.

"(2) PROJECTS.—Such grants shall be used for the establishment or continuation of projects that may provide—

"(A) development of Braille training materials; and

"(B) in-service or pre-service training in the use of Braille and methods of teaching Braille to youth and adults who are blind.

"(3) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) PARENT INFORMATION AND TRAINING PROGRAMS.—

"(1) GRANTS.—The Commissioner is authorized to make grants through a separate competition to private nonprofit organizations for the purpose of establishing programs to provide training and information to enable individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with disabilities. Such grants shall be designed to meet the unique training and information needs of individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals, who live in the area to be served, particularly those who are members of populations that have been unserved or underserved by programs under this Act.

"(2) USE OF GRANTS.—An organization that recieves a grant to establish training and information programs under this subsection shall use the grant to assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals to—

"(A) better understand vocational rehabilitation and independent living programs and services;

"(B) provide followup support for transition and employment programs;

"(C) communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

"(D) provide support in the development of the individualized written rehabilitation program;

"(E) provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

"(F) understand the provisions of this Act, particularly provisions relating to employment, supported employment, and independent living.

"(3) AWARD OF GRANTS.—The Commissioner shall ensure that grants under this subsection shall—

"(A) be distributed geographically to the greatest extent possible throughout all States; and

"(B) be targeted to individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, in both urban and rural areas or on a State or regional basis.

"(4) ELIGIBLE ORGANIZATIONS.—In order to receive a grant under this subsection, a private nonprofit organization shall—

"(A) submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization to—

"(i) coordinate and work closely with parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431); and

"(ii) effectively conduct the training and information activities authorized under this subsection;

"(B)(i) be governed by a board of directors—

"(I) that includes professionals in the field of vocational rehabilitation; and

"(II) on which a majority of the members are individuals with disabilities or the parents, family members, guardians, advocates, or authorized representatives of the individuals; or

"(ii)(I) have a membership that represents the interests of individuals with disabilities; and

"(II) establish a special governing committee that meets the requirements specified in subclauses (I) and (II) of clause (i) to operate a training and information program under this subsection; and

"(C) serve individuals with a full range of disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(5) CONSULTATION.—Each private nonprofit organization carrying out a program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the program.

"(6) COORDINATION.—The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating the training and information programs. To the extent practicable, such assistance shall be provided by the parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431).

"(7) REVIEW.—

"(A) QUARTERLY REVIEW.—The board of directors or special governing committee of a nonprofit private organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

"(B) REVIEW FOR GRANT RENEWAL.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the nonprofit private organization during the preceding fiscal year.

"(d) TRAINING REGARDING IMPARTIAL HEARING OFFICERS.—The Commissioner may award grants to public or nonprofit agencies and organizations to provide training designed to provide impartial hearing officers with the skills necessary to fairly decide appeals under this Act.

"(e) RECRUITMENT AND RETENTION OF URBAN PERSONNEL.—The Commissioner may award grants to public or nonprofit agencies and organizations to develop and demonstrate innovative methods to attract and retain professionals to serve in urban areas in the rehabilitation of individuals with disabilities, including individuals with severe disabilities.

"(f) CERTAIN REQUIREMENTS.—The requirements of subsections (a) (except the first sentence), (b), and (c), of section 302, and paragraphs (1) and (2) of subsection (g) of such section, shall apply with respect to grants made available under this section, other than subsection (c). The requirements of section 306 shall apply with respect to grants made available under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by adding at the end the following:

"TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

"Sec. 801. Authorization of appropriations.
"Sec. 802. Demonstration activities.
"Sec. 803. Training activities.".

## TITLE IX—AMENDMENTS TO OTHER ACTS

### Subtitle A—Helen Keller National Center

**SEC. 901. CONGRESSIONAL FINDINGS.**

Section 202 of the Helen Keller National Center Act (29 U.S.C. 1901) is amended—

(1) in paragraph (2), by inserting ", the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing," after "1960's"; and

(2) in paragraph (5), by striking "invested approximately $10,000,000" and inserting "made a substantial investment".

**SEC. 902. CONTINUED OPERATION OF CENTER.**

Section 203 of the Helen Keller National Center Act (29 U.S.C. 1902) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(3) in subsection (a) (as so redesignated by paragraph (2))—

(A) by striking "pursuant to section 313 of the Rehabilitation Act of 1973" and inserting "prior to the date of enactment of this Act"; and

(B) by striking "(c)" and inserting "(b)"; and

(4) in subsection (b) (as so redesignated by paragraph (2))—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following new paragraph:

"(2) train family members of individuals who are deaf-blind at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;".

**SEC. 903. AUDIT, MONITORING, AND EVALUATION.**

Section 204 of the Helen Keller National Center Act (29 U.S.C. 1903) is amended in subsection (a) by striking "at such time as the Secretary shall prescribe" and inserting "within 15 days following the completion of the audit and acceptance of the audit by the Center".

**SEC. 904. AUTHORIZATION OF APPROPRIATIONS.**

Section 205 of the Helen Keller National Center Act (29 U.S.C. 1904) is amended in subsection (a) by striking "1987 through 1992" and inserting "1993 through 1997".

**SEC. 905. DEFINITIONS.**

Section 206 of the Helen Keller National Center Act (29 U.S.C. 1905) is amended—

(1) in paragraph (1), by striking "section 313 of the Rehabilitation Act of 1973 and continued under"; and

(2) in paragraph (2), to read as follows:

"(2) the term 'individual who is deaf-blind' means any individual—

"(A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

"(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

"(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

"(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and perform-

ance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

"(C) meets such other requirements as the Secretary may prescribe by regulation; and".

**SEC. 906. CONSTRUCTION OF ACT, EFFECT ON AGREEMENTS.**

Section 207 of the Helen Keller National Center Act (29 U.S.C. 1906) is amended by striking "Industrial Home for the Blind, Incorporated" and inserting "Helen Keller Services for the Blind, Incorporated".

**SEC. 907. ESTABLISHMENT OF A PROGRAM.**

The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

**"SEC. 208. HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT PROGRAM.**

"(a) ESTABLISHMENT.—The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the 'Endowment Fund') in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

"(b) FEDERAL PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h), consistent with the provisions of this section.

"(2) AMOUNT OF PAYMENT.—Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

"(c) INVESTMENTS.—

"(1) IN GENERAL.—The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(2) LIMITATIONS.—

"(A) FEDERALLY INSURED INVESTMENTS AND OTHER INVESTMENTS.—The Endowment Fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of New York.

"(B) REAL ESTATE.—The Endowment Fund corpus and income may not be invested in real estate.

"(C) CONFLICT OF INTEREST.—The Endowment Fund corpus or income may not be invested in instruments or securities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

"(D) ENCUMBRANCES.—The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

"(d) WITHDRAWALS AND EXPENDITURES.—

"(1) IN GENERAL.—For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

"(2) OPERATIONAL AND COMMERCIAL EXPENSES.—

"(A) IN GENERAL.—The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

"(B) LIMITATION.—The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

"(3) LIMITATIONS AND WAIVER OF LIMITATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

"(B) EXCEPTION.—The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by a natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) REPORTING REQUIREMENTS.—

"(1) FINANCIAL RECORDS.—The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

"(2) AUDIT AND REPORT.—

"(A) AUDIT.—The Center shall arrange for the conduct of an annual financial and compliance audit of the Endowment Fund in the manner prescribed by the Secretary pursuant to section 204(a) (29 U.S.C. 1903(a)).

"(B) REPORT.—The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

"(3) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

"(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments made under this section if the Helen Keller National Center—

"(1) makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

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

"(1) ENDOWMENT FUND.—The term 'endowment fund' means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

"(2) ENDOWMENT FUND CORPUS.—The term 'Endowment Fund corpus' means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

"(3) ENDOWMENT FUND INCOME.—The term 'Endowment Fund income' means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1993 through 1997. Such sums shall remain available until expended.".

**SEC. 908. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) DEAF-BLIND INDIVIDUALS.—Paragraphs (1) through (4) of section 202, and section 203(b)(3) (as so redesignated by paragraphs (2) and (4)(A) of section 902), of the Helen Keller National Center Act (29 U.S.C. 1901 and 1902(b)(3)) are amended by striking "deaf-blind individuals" each place the term appears and inserting "individuals who are deaf-blind".

(b) DEAF-BLIND INDIVIDUAL.—Section 203(b)(1) of such Act (29 U.S.C. 1902(b)(1)) (as so redesignated by section 902(2)) is amended by striking "deaf-blind individual" and inserting "individual who is deaf-blind".

(c) DEAF-BLIND YOUTHS AND ADULTS.—

(1) Sections 202(4), 203(a) (as so redesignated by section 902(2)), and 206(1) of such Act (29 U.S.C. 1901(4), 1902(a), and 1905(1)) are amended by striking "Deaf-Blind Youths and Adults" each place the term appears and inserting "Youths and Adults who are Deaf-Blind".

(2) Section 203 of such Act (29 U.S.C. 1902) is amended in the section heading by striking "DEAF-BLIND YOUTHS AND ADULTS" and inserting "YOUTHS AND ADULTS WHO ARE DEAF-BLIND".

***Subtitle B—Other Programs***

**SEC. 911. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.**

(a) WAGNER-O'DAY ACT.—Section 1 of the Act entitled "An Act to Create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46) is amended by striking "from the Blind and Other Severely Handicapped" and inserting "From People Who Are Blind and Severely Disabled".

(b) SMALL BUSINESS ACT.—Section 15(c)(1)(A) of the Small Business Act (15 U.S.C. 644(c)(1)(A)) is amended by striking " from the Blind and Other Severely Handicapped" and inserting " From People Who Are Blind or Severely Disabled".

**SEC. 912. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.**

(a) TRAINING OR RETRAINING.—Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by adding at the end thereof the following new paragraph:

"(8) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, to meet the communications needs of such individuals.".

(b) NOTICE.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Education shall issue a Notice of Inquiry concerning the definition of the term "serious emotional disturbance" as used in the Individuals with Disabilities Education Act.

(2) PUBLIC COMMENT.—The Secretary of Education shall provide a public comment period of at least 90 days and shall request and consider—

(A) comments from the public on the need to revise the definition of the term in the regulations implementing such Act; and

(B) comments from the public on whether the term as used in such Act should be changed and

*on whether the substitution of the term "emotional and behavioral disorders" would be appropriate, or whether some other term should be used.*

*(3) DEFINITION.—The Notice of Inquiry shall contain the following proposed definition for use in the regulations implementing such Act:*

*"(1) As used in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)):*

*"(A) The term 'serious emotional disturbance' means a disability that is—*

*"(i) characterized by behavioral or emotional response in school programs so different from appropriate age, cultural, or ethnic norms that the responses adversely affect educational performance, including academic, social, vocational or personal skills;*

*"(ii) more than a temporary, expected response to stressful events in the environment;*

*"(iii) consistently exhibited in two different settings, at least one of which is school-related; and*

*"(iv) unresponsive to direct intervention applied in general education, or the condition of a child is such that general education interventions would be insufficient.*

*"(B) The term includes such a disability that co-exists with other disabilities.*

*"(C) The term includes a schizophrenic disorder, affective disorder, anxiety disorder, or other sustained disorder of conduct or adjustment, affecting a child, if the disorder affects educational performance as described in paragraph (1).*

*"(2) The term 'seriously emotionally disturbed' means, with respect to a child, that the child has a serious emotional disturbance.".*

*(4) REPORT.—The Secretary shall, within 10 months after the date of enactment of this Act, prepare a report containing a summary of the public comments described in paragraph (2)(B) received as a result of the Notice of Inquiry, and recommendations concerning whether such Act should be amended. The report shall be submitted to the appropriate committees of Congress, including the Subcommittee on Select Education of the Committee on Education and Labor of the House of Representatives, and the Subcommittee on Disability Policy of the Committee on Labor and Human Resources of the Senate.*

***SEC. 913. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.***

*The Technology-Related Assistance for Individuals With Disabilities Act of 1988 is amended—*

*(1) in section 221(a)(1) (29 U.S.C. 2251(a)(1)), by striking "nonprofit or for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,";*

*(2) in section 222(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,"; and*

*(3) in section 231(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,".*

***SEC. 914. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.***

*The Joint Resolution entitled "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949 (36 U.S.C. 155a) is amended—*

*(1) by striking "handicapped persons" and inserting "persons with disabilities";*

*(2) by striking "the handicapped" and inserting "such persons";*

*(3) by striking "for each of the fiscal years 1987, 1988, 1989, 1990, and 1991," and inserting "for each of the fiscal years 1993, 1994, 1995, 1996, and 1997,"; and*

*(4) by striking "The President's Committee on Employment of the Handicapped shall be guided by the general policies of the National Council on the Handicapped.".*

And the Senate agree to the same.

WILLIAM D. FORD,
PAT WILLIAMS,
MAJOR R. OWENS,
DONALD M. PAYNE,
JOSÉ E. SERRANO,
WM. JEFFERSON,
ED PASTOR,
BILL GOODLING,
CASS BALLENGER,
SCOTT KLUG,
RANDY "DUKE" CUNNINGHAM,
*Managers on the Part of the House.*

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
PAUL SIMON,
BROCK ADAMS,
ORRIN HATCH,
DAVE DURENBERGER,
JIM JEFFORDS,
*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. 5482) to extend and improve the Rehabilitation Act of 1973, 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 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.

### GENERAL PROVISIONS AND VOCATIONAL REHABILITATION SERVICES

#### 1. SHORT TITLE OF P.L. 93–112.

The House bill, but not the Senate amendment, changes the short title of P.L. 93–112 from the Rehabilitation Act of 1973 to the "Vocational Rehabilitation, Employment, and Independent Living Act of 1992."

The House recedes.

#### 2. AMENDATORY REFERENCES

With slightly different wording, both the House bill and the Senate amendment specify that references in this bill shall be considered to be made to the underlying Act.

The House recedes.

#### 3. FINDINGS, PURPOSE, AND POLICY FOR ENTIRE ACT

Both the House bill and the Senate amendment amend the purpose section of the Act. The House amendment specifies findings and purpose; the Senate amendment specifies findings, purpose, and policy.

*(a) Findings*

(i) The House bill specifies there are 43,000,000 Americans with disabilities and attributes the increase in the number of persons with disabilities to the aging of the population. The Senate amendment specifies that there are millions of Americans with disabilities and the number is increasing.

The House recedes.

(ii) The House bill includes statistics on the number of working age persons with disabilities and the number who are unemployed as an indication that individuals with disabilities constitute one of the most disadvantaged groups in society.

The Senate recedes with an amendment striking language in the House bill adding section 2(a) (2) to the Act and inserting: "individuals with disabilities constitute one of the most disadvantaged groups in society."

(iii) The Senate amendment explains that disability is a natural part of the human experience and in no way diminishes the exercise of basic rights, including the right to live independently and pursue meaningful careers.

The House recedes.

(iv) The House bill includes a finding that the provision of specific services can increase employment of persons with disabilities.

The Senate recedes.

(v) Both the House bill and the Senate amendment include a finding regarding the continued discrimination encountered by individuals with disabilities, but use slightly different language.

The House recedes.

(vi) Both the House bill and the Senate amendment include a finding on the Nation's goals in regard to individuals with disabilities, but use different language.

The House recedes.

*(b) Purpose and policy*

(i) With different wording, both the House bill and the Senate amendment specify that the purpose of the Act is to maximize employment, economic self-sufficiency, independence, and integration and inclusion of individuals with disabilities. The House amendment uses the term "maximize" and the Senate use the term "empower." Slightly different wording is used to describe the strategies through which these objectives will be achieved.

The House recedes to the Senate with an amendment to section 2(b) of the Act, as added by the Senate bill, striking "achieve" and inserting "maximize employment," before "economic self-sufficiency."

(ii) The House bill specifies additional purposes:

(A) provide comprehensive employment opportunities and eliminate segregation and unemployment;

(B) direct the provision of traditional rehabilitation services to recognize and acknowledge career choices; and

(C) ensure that the federal government plays a leadership role in promoting the employment of individuals with disabilities.

The House recedes on (A) and (B) and the Senate recedes on (C).

(iii) The Senate amendment, but not the House bill, includes a policy statement for the entire Act that specifies that all activities under the Act should be carried out consistent with the principles of

(A) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers based on informed choice;

(B) respect for privacy and equal access (including the use of accessible formats);

(C) inclusion, integration, and full participation;

(D) support and involvement of families and other authorized representatives if an

individual with a disability requests, desires, or needs such support; and

(E) support for individual and systemic advocacy and community involvement.

The House recedes.

4. APPOINTMENT OF THE COMMISSIONER OF THE REHABILITATION SERVICES ADMINISTRATION

The House bill, but not the Senate amendment, deletes the provision making the Commissioner of the Rehabilitation Services Administration a Presidential appointee, except that the current Commissioner may continue to serve at the pleasure of the President. Under the House bill, future Commissioners would be appointed by the Secretary.

The House recedes.

5. DEFINITION OF DESIGNATED STATE AGENCY

The Senate amendment, but not the House bill, includes in the definition section the term "designated State agency" and cross references the current description set forth in section 101(a)(1)(A) of the Act.

The House recedes.

6. DEFINITION OF "ESTABLISHMENT OF A REHABILITATION FACILITY"

The Senate amendment, but not the House bill, changes the term "establishment of rehabilitation facilities" to "establishment of community rehabilitation facilities."

The House recedes.

7. EVALUATION OF REHABILITATION POTENTIAL

Both the House bill and the Senate amendment change the term and definition of "evaluation of rehabilitation potential."

*(a) The Term*

The House bill changes the term to "evaluation of rehabilitation needs"; the Senate amendment changes the term to "assessment for determining eligibility and vocational rehabilitation services."

The House recedes.

*(b) The text of the term*

The House bill keeps the basic structure of current law and makes the following changes:

(i) The assessment must be used to determine that the individual has a substantial impediment to employment and that vocational rehabilitation services are needed.

(ii) The assessment must be completed within 60 days except under specified circumstances.

(iii) Where appropriate, the assessment must include an assessment of an individual's needs for supported employment to determine whether the individual can attain a successful employment outcome.

(iv) The assessment must include a comprehensive diagnostic study covering a number of specific areas with information collected limited to that which is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program and to the maximum extent possible and appropriate and in accordance with confidentiality requirements, existing information and information obtained from the family should be the primary source of information.

(v) The assessment must include an appraisal of an individual's patterns of work behavior and ability to acquire, among other things, occupational skills with assistive technology devices and services, as appropriate.

(vi) The assessment must include any goods or services provided for the purposes of ascertaining the nature of the disability and whether, with the aid of assistive technology devices and services, it may reasonably be expected that the individual can benefit from vocational rehabilitation services.

(vii) The assessment must include, where appropriate, the provision of rehabilitation engineering services, including assistive technology devices and services.

The Senate amendment completely restructures the provision and makes several changes. The term means, as appropriate in each case:

(i) a review of existing data to determine whether the individual is eligible and to assign the appropriate priority in those States that use an order of selection;

(ii) to the extent additional data is necessary to make such determinations, a preliminary assessment;

(iii) to the extent additional data is necessary, a comprehensive assessment, including the need for supported employment, to determine the individual's goals, objectives, and nature and scope of needed vocational rehabilitation services;

(iv) a description of the components of the comprehensive assessment that are similar to the provisions in the House bill described in the "diagnostic study";

(v) where appropriate, the provision of rehabilitation technology services to assess and develop the capacities of the individual to perform in a work environment;

(vi) a restatement of the extended evaluation provision in current law.

The House recedes to the Senate with an amendment inserting after "comprehensive assessment" in section 7(22)(B)(i) of the Act, as added by the Senate amendment, the following: "is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program of the individual;". The amendment also adds to (7)(22)(A) in the appropriate place that existing information should be used to the maximum extent possible and appropriate and in accordance with confidentiality requirements.

8. DRUG

The Senate amendment moves the location of the term without making any substantive changes.

The House recedes.

9. EMPLOYABILITY

(a) The Senate amendment, but not the House bill, changes the term "employability" to "employment outcome."

The House recedes.

(b) The House bill retains the language in current law that "with respect to an individual, a determination that, with the provision of vocational rehabilitation services, the individual is likely to enter or retain, as a primary objective, full-time employment, and when appropriate, part-time employment, consistent with the capabilities or abilities of the individual" and amends the remainder of the current definition by adding that "to the greatest extent practicable, [employment should be] within the competitive integrated labor market or to satisfy the vocational outcome of supported employment." The House bill also adds that "such term includes the establishment of intermediate objectives leading to the support of improved employment outcomes, including the ability to function more independently in a work situation or at home or in the community and the completion of training, including higher and continuing education programs."

The Senate amendment rewrites the definition to read as follows: "with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this Act."

The House recedes.

10. FEDERAL SHARE (MATCHING)

The House bill continues the "two-tiered" State match provision in current law. The Senate amendment provides for a single State match of 78.7 percent.

The House recedes.

11. DEFINITION OF THE TERM "INDIVIDUAL WITH A DISABILITY"

*(a) Individual with a disability in general*

The House bill amends the second part of the definition to read "can attain a successful employment outcome pursuant to titles I, III, and VI." The term "successful employment outcome" is a defined term (See note 19). The Senate amendment amends the second part to read "can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to titles I, II, III, VI, and VIII of the Act."

The House recedes.

*(b) Individual with a disability, titles IV and V*

Except with respect to the use of different cross-references, both the House bill and the Senate amendment update the terminology.

The House recedes.

*(c) Individual with a disability, title V*

(i) The House bill references a "student with a disability" and "students without a disability"; the Senate amendment refers to a "student who is an individual with a disability" and "students who are not individuals with disabilities."

The House recedes.

(ii) The House bill deletes the term "currently" before the phrase "is engaging in the illegal use of drugs."

The House recedes.

(iii) The Senate amendment, but not the House bill, adds the exclusion set forth in the Americans with Disabilities Act for certain groups for the purposes of sections 501, 503, and 504.

The House recedes.

12. NONPROFIT

The Senate amendment, but not the House bill, changes the reference in the definition of "nonprofit" from "rehabilitation facilities" to "community rehabilitation programs."

The House recedes.

13. PERSONAL ASSISTANCE SERVICES

Both the House bill and the Senate amendment add a definition for "personal assistance services." The definitions generally include the same concepts, but they are worded differently.

The Senate recedes to the House and the House recedes to the Senate with an amendment specifying: "the term 'personal assistance services' means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job."

14. REHABILITATION TECHNOLOGY

(a) The Senate amendment, but not the House bill, changes the term "rehabilitation engineering" to "rehabilitation technology."

The House recedes.

(b) The House bill and the Senate amendment both specify that the defined term in-

cludes assistive technology devices and assistive technology services. The Senate amendment also specifies that the term includes rehabilitation engineering.

The House recedes.

15. COMMUNITY REHABILITATION PROGRAM

Both the House bill and the Senate amendment include the same definition of the term "community rehabilitation program" with the minor difference that the House bill includes the phrase "including assistive technology devices and assistive technology services" after rehabilitation technology and the Senate amendment does not.

The House recedes.

16. INDIVIDUAL WITH A SEVERE DISABILITY

*(a) In general*

(i) The Senate amendment changes the word "employability" to "employment outcome."

The House recedes.

(ii) The Senate amendment replaces the term "evaluation of rehabilitation potential" with a reference to "an assessment for determining eligibility and vocational rehabilitation needs."

The House recedes.

*(b) For purposes of title VII*

The Senate amendment, but not the House bill, rewords the definition of "individual with a severe disability" for purposes of title VII.

The House recedes.

*(c) For purposes of section 13 and title II*

The Senate amendment, but not the House bill, includes a definition of "individual with a severe disability" for purposes of section 13 and title II.

The House recedes.

17. DEFINITION OF THE TERM "STATE"

With slightly different wording, both the House bill and the Senate amendment amend the definition of "State".

(a) The House bill, but not the Senate amendment, specifies that the term State includes the several States.

The Senate recedes.

(b) The House bill makes reference to the Northern Mariana Islands. The Senate amendment makes reference to the Republic of the Marshall Islands and the Federated States of Micronesia.

The Senate recedes.

(c) The House bill also specifies that the designated State agency for Samoa shall be the Governor. See note 41 for the comparable provision in the Senate amendment.

The Senate recedes.

(d) The House bill references the Commonwealth of Puerto Rico; the Senate amendment references Puerto Rico.

The Senate recedes.

(e) The House bill specifies that Palau is considered a State "until the Compact of Free Association takes effect" and the Senate bill specifies that Palau is a State "pending ratification of the Compact of Free Association."

The Senate recedes with a technical modification.

18. PUBLIC OR NONPROFIT AGENCY OR ORGANIZATION

The Senate amendment, but not the House bill, makes a technical change to the definition.

The House recedes.

19. SUCCESSFUL EMPLOYMENT OUTCOME

The House bill, but not the Senate amendment, adds a definition for a new term "successful employment outcome." The term means the successful completion of goals in the individualized written rehabilitation program, including the completion of such documentable outcomes as the ability to function more independently within the workplace, at home or in the community, the completion of training, including higher and continuing education programs and a minimum of 60 days of successful employment.

The House recedes.

20. ONGOING SUPPORT SERVICES

(a) The Senate amendment includes "a particularized assessment supplementary to the comprehensive assessment"

The House recedes.

(b) The House bill adds to those who may be contacted as part of followup services advocates and authorized representatives; the Senate does not include advocates and specifies legal representatives rather than authorized representatives.

The Senate recedes to the House and the House recedes to the Senate with an amendment specifying that: "followup services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;".

21. TRANSITION SERVICES

Both the House bill and the Senate amendment include similar definitions of "transition services" with only minor drafting differences.

The Senate recedes.

22. ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES

The Senate amendment uses the same definitions of assistive technology devices and assistive technology services from the Technology Act, while the House bill incorporates the Technology Act definitions by reference.

The Senate recedes with a technical and conforming amendment.

23. IMPARTIAL HEARING OFFICER

The Senate amendment, but not the House bill, adds a definition of "impartial hearing officer."

The House recedes.

24. INDEPENDENT LIVING CORE SERVICES AND INDEPENDENT LIVING SERVICES

The Senate amendment includes definitions for these terms in the general definition section applicable to the entire Act. The House bill includes similar definitions (without using the phrase "core services") but includes the definitions in title VII of the Act. The differences between the House bill and the Senate amendment are set out in the notes under title VII of the Act.

The House recedes to the Senate moving a blended definition to the general definition section.

25. DISABILITY.

The Senate amendment, but not the House bill, includes a definition for the term "disability."

The House recedes.

26. INDIVIDUALS WITH DISABILITIES

The Senate amendment, but not the House bill, adds clarifications of the terms "individuals with disabilities," "individuals with severe disabilities," and "individuals with the most severe disabilities."

The House recedes.

27. SUPPORTED EMPLOYMENT SERVICES

The Senate amendment, but not the House bill, adds a definition of "supported employment services."

The House recedes.

28. TERMINOLOGY

With minor differences, the House bill and the Senate amendment update the terminology used in the Act.

The House recedes with amendments.

29. ALLOTMENT PERCENTAGE

The Senate amendment, but not the House bill, changes the reference to the Trust Territory of the Pacific Islands to the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

The Senate recedes to the House with an amendment deleting "the Republic of the Marshall Islands" and all that follows and inserting "Palau (until the Compact of Free Association takes effect)".

30. AUDIT

The House bill, but not the Senate amendment, adds the phrase "a fiscal audit of" after "pertinent to."

The House recedes.

31. NONDUPLICATION

The Senate amendment, but not the House bill, changes the reference to "rehabilitation facilities" to "community rehabilitation programs."

The House recedes.

32. ADMINISTRATION OF THE ACT

*(a) Training.*

The House bill, but not the Senate amendment, specifies that the Commissioner may provide short-term training and technical instruction "including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches)."

The Senate recedes.

*(b) Regulations—selection and procurement of services*

Both the House bill and the Senate amendment provide for the promulgation of regulations establishing criteria pertaining to the selection of vocational rehabilitation services and the procurement of such services, with several differences.

(i) The House bill amends section 12 of the Act; the Senate amendment includes a free-standing provision.

The Senate recedes.

(ii) The House bill provides a time period of 120 days from the date of enactment for the receipt of public comment and the promulgation of regulations.

The Senate recedes.

(iii) The House bill provides for the Commissioner to promulgate the regulations, the Senate amendment provides for the Secretary to do so.

The House recedes.

(iv) The House bill provides that the regulations shall pertain to service providers while the Senate amendment pertains to services.

The Senate recedes to the House and the House recedes to the Senate.

(v) The House bill includes:

(A) goods as well as services,

(B) sufficient scope and quality,

(C) reasonableness of costs, reasonableness of length of time provided, timeliness of provision,

(D) prevention of fraud, waste, and abuse,

(E) procedures to assure that services are provided in the most integrated settings,

(F) procedures to assure compliance with State guarantees,

(G) guidelines for the use of out of State and religiously affiliated providers, and

(H) standards to ensure the integrity of services and guidelines for assisting individ-

uals particularly individuals with cognitive disabilities.

The Senate bill includes:

(A) sufficient scope and quality,

(B) reasonableness of costs, and

(C) prevention of fraud, waste, and abuse.

The Senate recedes to the House with amendments, including an amendment requiring the promulgation of regulations establishing the criteria within 120 days and an amendment striking "guidelines for the use of out of State and religiously affiliated providers."

*(c) Regulations-order of selection*

The Senate amendment, but not the House bill, includes a provision directing the Secretary of Education to promulgate regulations regarding the implementation of the provision in the Act pertaining to the order of selection. This provision is included as a free standing provision.

The House recedes.

33. REPORTS

(a) The Senate amendment, but not the House bill, includes types of rehabilitation technology services provided in the reporting requirements.

The House recedes.

(b) The House bill includes a number of additional reporting requirements not included in the Senate amendment including marital status, household makeup and earnings, disability specifics, and more employment information, number of jobs, hours worked, and earnings in the three years prior to application, types of public support received, primary source of economic support, whether covered by health insurance after receiving services, and supported employment status.

The House recedes with an amendment moving some of the data requirements to the section requiring review of data collection. The Conferees note that many of these data elements must be considered as part of the review of data required by the House bill and the Senate amendment. See Note 75.

34. EVALUATION

(a) The House bill, but not the Senate amendment, provides that the Secretary, not the Commissioner (current law) is responsible for conducting evaluations of programs.

The Senate recedes with an amendment specifying that the Secretary shall conduct the evaluation "in consultation with the Commissioner". The Conferees wish to emphasize that evaluations conducted under this section must be limited to evaluations of programs currently authorized under the Act.

(b) The House bill, but not the Senate amendment, provides that the opinions of participants shall be obtained, that the statewide assessment of rehabilitation needs shall include the active participation of rehabilitation service providers.

The Senate recedes.

(c) The House bill, but not the Senate amendment, directs the Secretary to verify through on-site review of records that the State is following an order of selection.

The House recedes to the Senate with an amendment moving to section 107 (pertaining to monitoring and review) the requirement in the House bill that the Commissioner verify through on-site review of records that the State is following the rules governing order of selection set forth in section 101(a)(5)(A) of the Act.

(d) The House bill, but not the Senate amendment, directs the Secretary to undertake a longitudinal study of a national sample of rehabilitation applicants.

The Senate recedes with an amendment adding "continue to."

35. REVIEW OF APPLICATIONS

(a) The Senate amendment, but not the House bill, increases the cap on review costs from ½ of 1% to 1%.

The House recedes.

(b) The Senate amendment, but not the House bill, specifies the compensation rate for non-Federal reviewers.

The House recedes.

36. CARRYOVER

With slightly different wording, both the House bill and the Senate amendment provide for carryover of funds to the next fiscal year for formula grant programs authorized under the Act.

The House recedes to the Senate with an amendment adding a new subsection (b) to section 19: "(b) Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated."

37. NOTIFICATION REGARDING CLIENT ASSISTANCE PROGRAM

With slightly different wording, both the House bill and the Senate amendment provide that all programs and projects shall provide information on client assistance programs.

The House recedes.

38. TRADITIONALLY UNDERSERVED POPULATIONS

The House bill, but not the Senate amendment, provides that the Commissioner shall develop and implement a policy to prepare minorities for careers in rehabilitation and a plan to provide outreach services to certain entities. For purposes of implementing the plan, the Commissioner shall, for each fiscal year 1993–1997, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out programs authorized in titles II through VII of the Act. The Commissioner shall submit a report to Congress.

The Senate recedes to the House with an amendment in subsection (b)(2)(C): after "titles II through VII of this Act" insert "except programs authorized under title IV or title V".

39. FINDINGS, PURPOSE, AND POLICY FOR TITLE I OF THE ACT

The House bill amends the statement of purpose for title I in current law by adding the phrase in quotations: The purpose of this title is to authorize grants to assist States to meet the current and future needs of individuals with a disability, so that such individuals may prepare for and engage in gainful employment "as a means to living independently" to the extent of their capabilities.

The Senate amendment strikes the current provision and replaces it with a provision setting forth findings, purpose and policy for title I.

The House recedes.

40. AUTHORIZATION OF APPROPRIATIONS

*(a) Basic State Grant.*

The House bill authorizes under section 100(b) (1) $1,839,852,000 for fiscal year 1993 and amounts determined by a formula for fiscal years 1994 through 1997; under section 100(b) (2) (as redesignated), such additional sums as may be necessary through fiscal year 1997; under section 100(b) (3) (as redesignated), in no event more than $1,875,512,100 for fiscal year 1993 and an amount determined by formula for the fiscal years 1994–1997.

The Senate amendment authorizes "such sums" for 1993 through 1997 and makes necessary conforming changes.

The House recedes.

*(b) Innovation and Expansion.*

The House bill deletes the separate authorization for part C pertaining to innovation and expansion grants. The Senate amendment retains the separate authorization of appropriations and extends the provisions to cover fiscal years 1993–1997.

The House recedes.

41. IN GENERAL (STATE PLAN)

(a) The House bill amends section 101(a) of the Act to provide that the State shall include information demonstrating that public hearings have been held on the State plan. Comparable provisions exist in current law (section 101(a)(23)(A)) and amendments thereto in the Senate amendment discussed under note 55.

The House recedes.

(b) The Senate amendment provides for adjustments in the timing for the submission of State plans so that the submission of State plans under other Federal laws can coincide with the State plan required by this title.

The House recedes.

42. STATE AGENCY (STATE PLAN)

The Senate amendment, but not the House bill, provides that the appropriate head of government of the Marshall Islands, Micronesia: and Palau shall be the designated State agency. See note 17(c) for the comparable provision in the House bill.

The Senate recedes.

43. PLANS, POLICIES, METHODS (STATE PLAN)

(a) With slightly different wording, both the House bill and the Senate amendment provide that the State will provide an explanation of how services will be provided to all who are eligible. The House bill also specifies "or else describe the order of selection it will follow."

The House recedes.

(b) The Senate amendment, but not the House bill, provides that the States shall establish criteria for determining who are individuals with the most severe disabilities.

The House recedes.

(c) The House bill, but not the Senate amendment, provides that the State's study of the broad variety of means for providing services to individuals with the most severe disabilities should include the use of funds under part C of title VI to supplement funds under part B of title I for the cost of services leading to supported employment.

The Senate recedes.

(d) The Senate amendment modifies current law by providing that the State plan shall describe how rehabilitation technology services will be provided and the training that will occur. The House bill retains current law, but adds that the State must describe how a broad range of assistive technology devices and services will be provided.

The House recedes with an amendment inserting "a broad range of" before "rehabilitation technology services".

44. FACILITIES COMPLIANCE (STATE PLAN)

The Senate amendment, but not the House bill, provides that facilities must comply with section 504 of the Act and with the Americans with Disabilities Act of 1990.

The House recedes with an amendment changing the title to "Program Compliance".

45. PERSONNEL (STATE PLAN)

(a) With a number of differences, both the House bill and the Senate amendment provide that the State plan must describe a comprehensive system of personnel development.

(i) The House bill requires:

(A) a description of how the State will ensure an adequate supply of personnel,

(B) a description of how the State's personnel training activities will be coordinated with IDEA,

(C) a system of determining the institutions of higher education in the State that are preparing personnel,

(D) a plan to address current and future personnel needs, and recruitment and retention and

(E) a description of plans to ensure that all personnel employed by the State are appropriately and adequately trained and prepared.

The Senate amendment requires a comprehensive system of personnel development for professionals and paraprofessionals employed by the State agency, which system shall include:

(A) a plan to address current and projected personnel needs and to coordinate and facilitate efforts to recruit, prepare, and retain qualified personnel and

(B) a description of procedures and activities the State will undertake to ensure that all personnel needed by the State agency are appropriately and adequately prepared, including training regarding the Rehabilitation Act Amendments, surveys to determine training needs, a system for the continuing education of personnel and procedures for acquiring and disseminating knowledge from research.

The Senate recedes to the House with amendments. First, section 101(a)(7)(A)(ii) is amended by inserting "where appropriate" before the phrase "a description". Second, section 101(a)(7)(E)(ii) is amended by inserting after "research and other sources" the following "including training regarding the amendments to the Rehabilitation Act made by the Rehabilitation Act Amendments of 1992".

(b) With different language, both the House bill and the Senate amendment require policies and procedures to establish and maintain personnel standards.

The House recedes to the Senate with an amendment inserting after the term "personnel" the following: "(including professionals and paraprofessionals)". Section 101(a)(7)(B), as added by the Senate amendment, is amended in (B) by striking "needed by the State agency" and inserting "needed within the State agency"; and in (B)(ii) by adding "within the designated State unit" after "personnel". Section 101(a)(7)(C), as added by the Senate amendment, is amended by adding "within the designated State unit" after "personnel".

46. COMPARABLE BENEFITS AND SERVICES (STATE PLAN)

With drafting differences, both the House bill and the Senate amendment provide that a determination of comparable benefits is not required if a job placement would be lost due to the delay. The Senate amendment, but not the House bill, limits the provision to situations where the job placement is "immediate."

The House recedes.

The Conferees intent that there is nothing in the language of the Rehabilitation Act to require, or even to allow, the application of a comparable services determination with respect to taped texts, and any contrary position or policy is not appropriate. The Committee expects the Rehabilitation Services Administration to reflect that the comparable services and benefits exception applies to alternative format books accessible by computer (sometimes call E-text) as well as to taped books.

47. USE OF EXISTING INFORMATION (STATE PLAN).

The Senate amendment, but not the House bill, adds an assurance that existing information will be used to the maximum extent appropriate and consistent with the requirements of the Act.

The House recedes.

48. STATE REPORTS (STATE PLAN)

The House bill, but not the Senate amendment, provides that State reports to the Commissioner will include certain data including the number of persons evaluated and rehabilitated and other factors, including the costs of administration, counseling, direct services, and facility development.

The Senate recedes to the House with an amendment deleting "facilities" and inserting "community rehabilitation programs.

49. INTERAGENCY COOPERATION

(a) The House bill, but not the Senate amendment, changes the reference to the Perkins Act to the Carl D. Perkins Vocational and Applied Technology Education Act.

The Senate recedes.

(b) The Senate amendment, but not the House bill, adds the Committee on Purchases of Blind-Made Products to the list of programs with whom the State shall provide cooperative arrangements.

The House recedes.

(c) The House bill, but not the Senate amendment, adds to the cooperative arrangements that the arrangements shall include training of staff of other programs regarding rehabilitation services.

The Senate recedes.

(d) The Senate amendment, but not the House bill, provides that means of interagency cooperation include, if appropriate, establishing interagency working groups and entering into formal interagency agreements that identify areas of coordination and identify available resources and define respective financial responsibility.

The House recedes.

50. COMMUNITY REHABILITATION PROGRAMS (STATE PLAN)

The Senate amendment, but not the House bill, changes the reference from rehabilitation facilities to community rehabilitation programs.

The House recedes.

51. STATEWIDE STUDIES (STATE PLAN)

(a) The Senate amendment, but not the House bill, changes the reference to rehabilitation facilities to community rehabilitation programs.

The House recedes.

(b) The House bill, but not the Senate amendment, provides that statewide studies shall include outreach procedures to identify and serve those from minority backgrounds and those who have been unserved and underserved.

The Senate recedes.

52. EXTENDED EMPLOYMENT (STATE PLAN)

(a) The House bill specifies that the review and reevaluation must occur "at least" on an annual basis; the Senate amendment specifies "annual."

(b) The Senate amendment, but not the House bill, specifies that input from the individual or their family should be included in the review and reevaluation of extended employment.

(c) The Senate amendment makes reference to community rehabilitation programs; the House bill adds "within, through, or outside" such programs.

(d) The House bill makes reference to the needs of such individuals for employment or training in the competitive labor market; the Senate amendment makes reference to the "interests, priorities, and needs of such individuals for their employment, or training for competitive employment, in integrated settings in the labor market."

(e) With respect to maximum efforts, the House bill includes the identification of services as well as the provision of vocational services, as well as reasonable accommodations, and other support services to enable such individuals to benefit from training or to be placed in employment in integrated settings. The House bill also includes transition services to promote integration, including supported employment, independent living and community participation.

The Senate amendment includes the provision of vocational rehabilitation services, designed to promote movement from extended employment to integrated employment (including supported employment).

The Senate recedes to the House and the House recedes to the Senate with an amendment blending the two provisions.

53. VIEWS CONSIDERED (STATE PLAN)

Drafted differently, both the House bill and the Senate amendment add the client assistance program director to those whose views should be considered.

The Senate recedes.

54. USE OF STUDIES AND EVALUATIONS (STATE PLAN)

The Senate amendment, but not the House bill, specifies that evaluations and studies must be used to not only amend the State plan (current law) but the strategic plan as well.

The House recedes.

55. FORMULATION OF STATE PLAN

(a) The House bill, but not the Senate amendment, adds that the State plan must include an assurance that the State will consult with the Director of the client assistance program regarding the formulation of policies.

The Senate recedes.

(b) The Senate amendment, but not the House bill, adds that public input must be sought before the development of the State plan.

The House recedes.

56. TRANSITION FROM EDUCATION TO REHABILITATION (STATE PLAN)

With different language, both the House bill and the Senate amendment specify that the State plan must include plans, polices, and methods for the transition of students to vocational rehabilitation.

The House bill requires provisions for determining the lead agency and personnel responsible, the procedures for outreach to and identification of those who need transition services, and a time frame for evaluation and followup should be included.

The Senate amendment includes that there should be a cooperative agreement designed to facilitate the accomplishment of the goals and objectives identified in the individualized education program and to facilitate the transition to vocational rehabilitation.

The House recedes to the Senate with amendments. First, the House strikes "independent living" and inserts "live independently". Second, House amendment adds a new subparagraph (C) to read as follows:

"(C) provide that such plans, policies, and procedures will address—

(i) provisions for determining State lead agencies and qualified personnel responsible for transition services;

(ii) procedures for outreach to and identification of youth in need of such services; and

(iii) a timeframe for evaluation and follow-up of youth who have received such services;".

57. ACCEPTABLE PLAN FOR PART C OF TITLE VI (STATE PLAN)

The House bill, but not the Senate amendment, adds that the State plan must include an assurance specifying that funds under part C of title VI will be used to supplement title I funds for supported employment.

The Senate recedes.

58. ADDITIONAL PROVISIONS IN THE STATE PLAN

The House bill, but not the Senate amendment, adds State plan assurances that describe:

(a) how personal assistance services will be provided,

(b) how cooperative agreements are established with private nonprofit vocational rehabilitation service providers,

(c) the needs and use of community rehabilitation programs with regard to the Javits-Wagner O'Day Act,

(d) how clients are given choice and increased control,

(e) how non-special education students with disabilities can access and receive services,

(f) how technology devices and services or worksite assessments are provided during assessment of needs,

(g) how the Advisory Council recommendations are addressed,

(h) how the State responds to consumer satisfaction surveys and,

(i) how at least one job development specialist has been employed to provide specified services.

The Senate amendment, but not the House bill, adds State plan assurances that provide

(j) for coordination with the Statewide Independent Living Council,

(k) the development of a strategic plan to expand and improve services,

(l) a system for evaluating personnel performance that facilitates the goals of the title,

(m) work with disability organizations, business, industry, and labor to expand employment opportunities including providing technical assistance on the amendments and the Americans with Disabilities Act.

The Senate recedes on (a), (b), (c), (d), (e), (f), (h), and (m). The House recedes on (g) and (i), and (j). With respect to (k), the House recedes with an amendment adding the following: "will use at least 1.5 percent of the allotment of the State under part B for the uses described in section 123."

With respect to (l), the House recedes to the Senate. The Senate bill provides that the designated State unit shall describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this title, including the policy of serving, among others, individuals with the most severe disabilities. It is the intent of the Conferees that such system may include standards such as the ability to function more independently in a work situation or at home or in the community and the completion of training, including higher and continuing education programs.

59. ASSURANCE IN THE STATE PLAN REGARDING ADVISORY COUNCIL

Both the House bill and the Senate amendment add an assurance regarding the establishment of a State advisory council.

(a) The House bill refers to the council as the "Rehabilitation Consumer and Business Advisory Council. The Senate amendment refers to the Council as the "State Rehabilitation Advisory Council."

The House recedes.

(b) The House bill specifies that the designated State unit must consider advice relating to the State plan under this title, innovation and expansion grant applications and State plan for independent living and any State rules of general applicability. The Senate amendment specifies that the designated State agency and the designated State unit must consider advice regarding the strategic plan.

The House recedes.

(c) The House bill specifies that State must include, among other things, a summary of advice in an annual report. The Senate amendment specifies that this information must be included in the State plan.

The House recedes.

(d) The Senate amendment, but not the House bill, specifies the information that the State must provide to the advisory council.

The House recedes.

(e) With slightly different wording, the House bill and the Senate amendment provide a State that has a consumer-controlled commission need not establish an advisory council.

The House recedes.

60. ELIGIBILITY

(a) The House bill specifies that the individualized written rehabilitation program is developed jointly, agreed upon and signed by the vocational rehabilitation counselor and the individual and, if appropriate, a parent, family member, guardian, advocate, or authorized representative and that a copy of the plan and any amendments be provided to the individual in an accessible format. (The Senate amendment has a comparable provision in section 102(b)(1)(C), as amended).

The House recedes.

(b) With minor drafting differences, the Senate revision of section 102(a) and the House additions to section 102(a) regarding eligibility and presumptions are the same with the following exceptions:

(i) The Senate amendment, but not the House bill, requires extended evaluation in those cases where ineligibility may be found on the basis of severity.

The House recedes.

(ii) The Senate amendment includes a time frame for determinations, the House bill includes a similar provision in the definition of "evaluation of rehabilitation needs," with the difference that the timeframe in the Senate amendment applies to the preliminary evaluation used to determine eligibility and the timeframe in the House amendment applies to the preliminary and comprehensive evaluation used to determine both eligibility and the nature and scope of services required.

The House recedes.

(iii) The Senate amendment, but not the House bill allows for an exception to the timeframe in cases where an extended evaluation is required. The House bill retains the extended evaluation provision in current law.

The House recedes.

(iv) The Senate amendment provides that the determination of eligibility shall be based on a review of existing data and, as necessary, a preliminary assessment.

The House recedes.

(v) The Senate amendment specifies that the State shall insure that ineligibility determinations made prior to the initiation of the individualized written rehabilitation program shall include the reasons, the rights and remedies available, and the availability of the client assistance program (this provision is similar to current law, which is not amended by the House bill).

The House recedes.

61. INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

Both the House bill and the Senate amendment make changes to the requirements of the individualized written rehabilitation plan in section 102(b).

The changes to the Act in the House bill include—

(i) assessment of rehabilitation needs designed to maximize the capacity of the individual to achieve integrated employment leading to living independently,

(ii) assessment of career interests and needs which goals shall, to the maximum extent appropriate, include placement in integrated settings,

(iii) clarifying that rehabilitation engineering services includes assistive technology devices and services,

(iv) clarification that services must be provided, to the maximum extent appropriate, in integrated work settings,

(v) the views and choices of the individual and if appropriate the parent,

(vi) to the maximum extent possible, be provided in the native language, or mode of communication of the individual and if appropriate the parent,

(vii) where appropriate include a statement of the specific on-the job and related personal assistance services,

(viii) where appropriate and desired by the individual, training in managing, supervising and directing personal assistance services,

(ix) identification of other related services and benefits, and

(x) specification of services requested and denied and the reasons for such denial.

The provisions in the Senate amendment include:

(i) timeframe for completing comprehensive assessment (if necessary) after eligibility has been established,

(ii) individualized written rehabilitation program jointly developed, agreed upon, and signed by the individual or parent or other specified individual if appropriate,

(iii) the terms and conditions under which goods and services will be provided,

(iv) the identity of and the process for determining service providers,

(v) the individual's statement about how they were involved in the process of determining the plan, and

(vi) the reasons an individual with an individualized written rehabilitation program has become ineligible and the rights and remedies available to that individual.

Drafted slightly differently, both the House bill and the Senate amendment specify that any revisions or amendments shall be incorporated into or affixed to the individualized written rehabilitation program. The House bill, but not the Senate amendment, specifies that such revisions shall be signed.

The House recedes to the Senate with amendments. First section 102(b)(1)(B)(ii) is amended to read as follows: "(ii) include a statement of the long-range rehabilitation goals based on the assessment for determining eligibility and vocational rehabilitation needs described in section 7(22)(B), including an assessment of career interests, for the individual, which goals shall, to the maximum extent appropriate, include placement in integrated settings;".

Second, section 102(b)(1)(B)(iv) is amended by adding a new subclause (III) to read as follows: "(III) if appropriate, include a state-

ment of the specific on-the-job and related personal assistance services to be provided to the individual and, if appropriate and desired by the individual, the training in managing, supervising, and directing personal assistance services to be provided to the individual;".

Third, at the end of subparagraph (viii), add "in the most integrated settings."

Fourth, add a new subparagraph (xiv) and a new subparagraph (xv) to read as follows:

"(xiv) to the maximum extent possible, be provided in the native language, or mode of communication, of the individual or, in an appropriate case, of a parent, family member, guardian, advocate, or authorized representative, of such individual;"

"(xv) include information identifying other related services and benefits provided pursuant to any Federal, State, or local program that will enhance the capacity of the individual to achieve the vocational objectives of the individual;".

Finally, amend section 102(b) (2) by adding the following additional sentence: "Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program. Such revisions or amendments shall not take effect until agreed to and signed by the individual with a disability, or, if appropriate, by a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.".

62. REVIEW DETERMINATIONS OF INELIGIBILITY

The Senate amendment, but not the House bill, specifies that the Director of the State program rather than the Commissioner shall review determinations of ineligibility.

The House recedes.

The Senate amendment, but not the House bill, makes a conforming change in section 102(c) (2).

The House recedes.

63. DUE PROCESS PROCEDURES

*(a) Continuation of services*

With different phrasing, both the House bill and the Senate amendment provide that pending an administrative appeal, the individual must continue to receive services. The Senate bill does not require continuation under certain circumstances such as misrepresentation.

The House recedes with an amendment inserting after "unless the individual with a disability" the following ", in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual".

*(b) Qualifications of the hearing officer*

The House bill specifies that the impartial hearing officer must be certified as having completed a training program conducted by the State unit in conjunction with the client assistance program. The House bill also specifies other qualifications of the individual. For the comparable provision in the Senate bill see the note on the definition of the term impartial hearing officer.

The House recedes.

*(c) Selection of hearing officers*

With slightly different wording, the House bill and the Senate amendment specify the procedure for selecting hearing officers.

The House recedes with an amendment inserting the phrase in Note 63(a) after "and the individual with a disability".

*(d) Decision of the hearing officer and review by State*

The House bill specifies that the decision of the hearing officer shall be final. The Director may not overturn or modify a decision which supports the individual's position unless he or she concludes, based on clear and convincing evidence, that the hearing officer's decision is contrary to Federal or State law. The Senate amendment specifies that the Director may not overturn or modify a decision of a hearing officer that supports the position of the individual unless the Director concludes, based on clear and convincing evidence that the decision is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

The House recedes.

*(e) Data*

The House bill, but not the Senate amendment, requires that the data required must include how many requests the client assistance program receives annually, how many requests such program is unable to serve, and the reasons that the program is unable to serve all the requests.

The Senate recedes with an amendment moving the provision to section 112 of the Act pertaining to client assistance programs.

64. SCOPE OF VOCATIONAL REHABILITATION SERVICES.

*(a) Assessment*

The Senate amendment strikes the current section 103(a) (1) of the Act and inserts the following: "an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology." The House bill makes conforming language changes, and specifies that the assessment should be based on relevant existing reports to the maximum extent appropriate, that the individual's self assessment should be considered where appropriate, and that the assessment should include the individual's need for supported employment.

The House recedes.

*(b) Miscellaneous services*

The Senate amendment moves two phrases from paragraph (2) to paragraph (13): referral and other services designed to help individuals with disabilities secure needed services from other agencies. The House bill, but not the Senate amendment, adds that phrase "work-related" to describe placement services and explains that such services include job search assistance, placement, job retention, and personal assistance services.

The House recedes to the Senate and the Senate recedes to the House.

*(c) Additional miscellaneous services*

The House bill adds transition services to paragraph (3). The Senate amendment makes technical changes to paragraph (3).

The House recedes.

*(d) Conforming changes*

The House bill, but not the Senate amendment, makes conforming language changes to paragraph (4).

The Senate recedes.

*(e) Maintenance*

The Senate amendment, but not the House bill, specifies in paragraph (5) that maintenance is for additional costs incurred while participating in rehabilitation.

The House recedes.

*(f) Technology and services for specified groups*

The House bill strikes paragraphs (11) and (12) and inserts new language.

The new paragraph (11) replaces the phrase "telecommunications, sensory and other technological aids and devices" with "rehabilitation engineering and assistive technology devices and services, including such products as environmental control units, augmentative communication, computers and computer input devices and telecommunication devices."

The new paragraph (12) replaces "rehabilitation engineering" with the phrase "services for individuals with sensory, mobility and/or cognitive impairments."

The Senate amendment retains paragraph (11) and changes the term in paragraph (12) from "rehabilitation engineering" to "rehabilitation technology."

The House recedes.

*(g) Transition services*

With different phrasing, both the House bill and the Senate amendment add transition services to the list.

The House recedes.

*(h) Personal assistance services*

With different phrasing, both the House bill and the Senate amendment add personal assistance services to the list.

The Senate recedes to the House with an amendment inserting after "on-the-job" the following "or other related".

*(i) Supported employment services*

The Senate amendment, but not the House bill, adds to the list supported employment services.

The House recedes.

*(j) Group services*

The House bill, but not the Senate amendment, provides that in subsection (b) of section 103, vocational rehabilitation services include those services provided for groups (current law) or "for the employment of an individual in an integrated work setting within the competitive labor market."

The House recedes.

*(k) Community rehabilitation programs*

The House bill, but not the Senate amendment, adds that under section 103(b), the sums providing community rehabilitation program services shall be used to provide services that promote integration and competitive employment.

The Senate recedes.

*(l) Americans With Disabilities Act assistance*

The House bill, but not the Senate amendment, adds technical assistance and support services to business on the Americans with Disabilities Act as part of the list of services.

The Senate recedes.

*(m) Technical changes*

The House bill, but not the Senate amendment, makes technical drafting changes to section 103(b).

The Senate recedes.

65. NON-FEDERAL SHARE FOR CONSTRUCTION

The Senate amendment, but not the House bill, makes conforming changes to Section 104.

The House recedes.

66. EVALUATION

With slightly different wording, both the House bill and the Senate amendment add a new section on evaluation. In addition to some drafting differences, the substantive differences are:

(a) The House bill titles the section "Evaluation Standards," the Senate titles the section "Evaluation Standards and Performance Indicators."

The House recedes.

(b) The Senate amendment, but not the House bill, specifies that the standards are to facilitate and in no way impede the accomplishment of the purposes of this title.

The House recedes.

(c) The Senate amendment, but not the House bill, specifies that the Commissioner

shall publish a notice of intent to regulate and the proposed standards and indicators in the Federal Register for public comment.

The House recedes.

(d) The Senate amendment, but not the House bill, specifies that the Commissioner shall provide technical assistance to the State in cases where the State does not meet the standards and indicators.

The House recedes.

67. STATE ADVISORY COUNCIL

*(a) Title*

The House bill refers to the Council as the "State Rehabilitation Consumer and Business Advisory Council." The Senate amendment refers to the Council as the "State Rehabilitation Advisory Council."

The House recedes.

*(b) Independent commissions; separate commissions*

With slightly different wording, the House bill and the Senate amendment recognize the exception for States that have an independent commission and the discretion to form two councils in States with a commission for the blind.

The House recedes.

*(c) Effective date*

The House bill, but not the Senate amendment provides that this provision does not go into effect until one year from the date of enactment of the Rehabilitation Act Amendments of 1992.

The House recedes. Both the House bill and the Senate amendment include a provision authorizing the use of existing councils for one year after the date of enactment of the Rehabilitation Act Amendments of 1992. The Conferees do not intend for this provision to delay in any way the formation and implementation of State Rehabilitation Advisory Councils. This provision is merely designed to avoid unnecessary disruption.

*(d) Composition*

(i) With slightly different wording, both the House bill and the Senate amendment provide that the membership must include the chair or designee of the Statewide independent living council; a representative from the parent training center, the client assistance program, and community rehabilitation programs; representatives from a cross section of the disability community and current and former applicants for or recipients of vocational rehabilitation services. The Senate amendment, but not the House bill includes in the disability advocacy groups those that represent parents, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty representing themselves.

(ii) The House bill specifies that there shall be four representatives of business, industry, and labor. The Senate amendment specifies that there must be at least one member of business and industry and at least one member from labor.

(iii) The Senate amendment, but not the House bill, specifies that the Council must include a vocational rehabilitation counselor.

The Senate recedes to the House and the House recedes to the Senate with an amendment. The amendment shall include the following subparagraphs from the Senate amendment: (A), (B), (C), (D) as modified to read as follows: "at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency"; (H), and (I). The amendment shall include the following provisions from the House bill: (D) and (E).

*(e) Appointment*

The Senate amendment, but not the House bill, specifies that the appointing authority must appoint members after soliciting recommendations from a broad range of specified organizations.

The House recedes.

*(f) Qualifications*

With slightly different wording, both the House bill and the Senate amendment specify that a majority of the council must be individuals with disabilities.

The House recedes.

*(g) Chairperson*

Both the House bill and the Senate amendment specify that the chairperson should be selected from among the membership. However, the House bill includes an exception in States where the Governor does not have a veto power.

The Senate recedes with an amendment using the Senate language set out in the title pertaining to independent living.

*(h) Terms of appointment*

The House bill specifies that the Governor shall provide for term limits and staggered terms. The Senate amendment specifies that a member shall serve for not more than 3 years with no member serving more than two consecutive full terms. The Senate amendment also calls for staggered terms.

The House recedes.

*(i) Vacancies*

The Senate amendment, but not the House bill, specifies the procedure for filling vacancies.

The House recedes.

*(j) Meetings*

The House bill specifies that the Council shall meet at least 4 times a year and in such places as it deems necessary to conduct business. The meetings must be publicly announced and open and accessible to the general public.

The Senate amendment specifies that in addition to convening at least 4 times to conduct meetings, the Council may conduct forums or hearings as are considered appropriate. The meetings shall be open to the public unless there is a valid reason for an executive session.

The House recedes.

*(k) Budget/resources*

The House bill specifies that the director of the State agency and the council shall prepare a budget to reimburse members for reasonable expenses, to pay compensation to members under specified circumstances, to hire staff and obtain the services of support staff. The State must reserve an amount not to exceed $200,000. Funds may not be used to defray the expense of members who are employees of State agencies or representatives of business, industry, and labor.

The Senate amendment specifies that the Council shall prepare, in conjunction with the designated State unit, a plan for the provision of resources, including staff and other personnel, relying to the maximum extent possible on existing resources. Disagreements between the Council and the designated State unit regarding the resources necessary shall be resolved by the Governor or appointing agency. The Senate amendment also specifies that the Council will have supervisory responsibility over staff and personnel, consistent with State law and such personnel who work for the designated State unit may not be assigned duties that create a conflict of interest. The Senate amendment also specifies policies governing compensation and expenses of the council.

The House recedes. The Conferees expect that the State Rehabilitation Advisory Council will be fully independent from the State vocational rehabilitation agency even while relying, to the maximum extent possible, on existing resources from the State vocational rehabilitation agency to provide staff and other personnel. The Conferees expect that staff provided by the State vocational rehabilitation agency, when assigned to work for the Council, will work solely on behalf of the Council and will not be assigned duties that create a conflict of interest. The Conferees expect that administrative arrangements made in the State will be consistent with this expectation so that each State Rehabilitation Advisory Council can operate independently.

*(l) Functions of the council*

(i) The House bill specifies that the Council shall review, analyze, and advise the designated State unit on matters relating to a specified list. The Senate amendment specifies that such function shall be with respect to the performance of the responsibilities of the unit under the title with particular emphasis on a specified list that is comparable to the list in the House bill.

The House recedes.

(ii) With slightly different wording, both the House bill and the Senate amendment specify the function relating to the preparation of applications, plans, and reports.

The House recedes.

(iii) With slightly different wording, both the House bill and the Senate amendment provide for the preparation of a report. The House bill provides that the report should be to the Governor; the Senate amendment provides that the report should be to the Governor or the appropriate State entity.

The House recedes.

(iv) With slightly different wording, both the House bill and the Senate amendment specify that the Council must coordinate with other councils.

The House recedes.

(v) The House bill, but not the Senate amendment includes additional responsibility to coordinate with the statewide independent living council.

The Senate recedes.

(vi) The Senate amendment, but not the House bill, authorizes the Council to perform other functions consistent with the purposes of the title.

The House recedes.

68. SOCIAL SECURITY REIMBURSEMENT PAYMENTS

The House bill specifies that Social Security reimbursement payments may be used to carry out programs under title I, part C of title VI, and title VII. The Senate amendment provides that any State that used, during fiscal year 1992, such payments for allowable expenditures under the Act may continue such use until October 1, 1994.

The Senate recedes.

69. TRAINING OF EMPLOYERS

The House bill, but not the Senate amendment, adds a new section allowing the States to provide a program to train employers regarding the Americans with Disabilities Act. The Senate amendment addresses this in the State plan requirements, by the provision of technical assistance.

The Senate recedes.

70. MONITORING AND REVIEW

With slightly different wording, both the House bill and the Senate amendment add a

new section relating to monitoring and review.

The House recedes.

71. STATE ALLOTMENTS

(a) The House bill, but not the Senate amendment, deletes section 110(a)(4) pertaining to the amount of a State's allotment.

The House recedes.

(b) The Senate amendment, but not the House bill, makes a technical change to section 110(a)(3) pertaining to the territories.

The House recedes to the Senate with an amendment striking "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association takes effect)".

(c) The House bill, but not the Senate amendment, deletes section 110(b)(1) pertaining to the amount of a State's allotment.

The House recedes.

(d) The Senate amendment, but not the House bill, provides for funds that will not be used by a State to remain available for reallotment until they are reallotted.

The House recedes.

(e) The House bill, but not the Senate amendment, increases the percentage allotted to carry out part D to not less than ½ of 1% to not more than 1.5%.

The Senate recedes to the House with an amendment specifying that the minimum shall be increased to 1/3 of 1 percent for fiscal years 1993 and 1994 and then increased to 1/2 of 1 percent for fiscal years 1995, 1996, and 1997.

72. PAYMENTS TO STATES

The Senate amendment, but not the House bill, adds a paragraph to specify the level of Federal match for construction projects.

The House recedes.

73. CLIENT ASSISTANCE PROGRAM

*(a) Advocacy*

With different language, the House bill and the Senate amendment specify that services may include "advocacy." The House adds that the advocacy may be individual and systemic.

The Senate recedes.

(B) AUTHORIZED FUNCTIONS.

(i) The House bill, but not the Senate amendment, provides that the program shall provide information on the available services under the Act and the Americans with Disabilities Act to individuals within the State with disabilities, particularly individuals traditionally underserved by rehabilitation programs.

The Senate recedes to the house with an amendment inserting "title I of" before "the Americans with Disabilities Act".

(ii) The Senate amendment, but not the House bill, provides that the program may provide assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

The House recedes.

*(c) Redesignation*

With different wording, the House bill and the Senate amendment specify the procedures that must be followed with respect to redesignation of client assistance programs. The Senate amendment, but not the House bill, provides that the agency may appeal to the Commissioner in cases where the Governor's redesignation is not for good cause.

The House recedes to the Senate with an amendment inserting "30 days" before "notice" in section 112(c)(1)(B)(i).

*(d) Territories*

The Senate amendment, but not the House bill, makes a technical change to section 112(e)(1)(B) and (C) pertaining to the territories.

The Senate recedes to the House with an amendment that is identical to the amendment described in Note 71(b).

*(e) Minimum allotments*

The House bill, but not the Senate amendment, changes the minimum allotment for the States in section 112(e)(1)(D) from $75,000 to $100,000. The House bill, but not the Senate amendment, adds discretion for the Commissioner to increase the allotment for American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

The Senate recedes with an amendment striking the "Trust territory of the Pacific Islands" and inserting "The Republic of Palau (until the Compact of Free Association takes effect)".

*(f) Confidentiality*

The House bill, but not the Senate amendment, provides in section 112(g) for the confidentiality of individuals requesting assistance from client assistance programs.

The Senate recedes.

*(g) Authorization of Appropriations*

The House bill authorizes $9,434,000 for fiscal year 1993, and such sums thereafter. The Senate amendment provides for such sums for fiscal years 1993 through 1997.

The House recedes.

*(h) Transfer to title V*

The House bill, but not the Senate amendment, transfers section 112 to section 500 of the Act.

The House recedes.

74. INNOVATION AND EXPANSION

*(a) State allotments*

(i) The House bill, but not the Senate amendment, specifies that from the sums available under section 110(e) each State must use 1.5% of such funds for activities relating to innovation and expansion. The Senate maintains the separate authorization (see note 71(c)).

The House recedes with an amendment. See Note 74(f).

(ii) The House bill specifies that each State's allotment shall be based on its relative population with a minimum of $100,000 or one-quarter of 1 percent, whichever is greater. The Senate amendment uses relative population but includes a $200,000 minimum or one-third of 1 percent and includes a formula for other jurisdictions. The Senate amendment also includes a provision to adjust the minimum upwards based on Consumer Price Index and a provision relating to proportional reductions.

The House recedes.

(iii) With slightly different wording, both the House bill and the Senate amendment specify procedures for reallotment.

The House recedes.

*(b) Application*

The House bill specifies that any State desiring to receive assistance under part C must prepare and submit an application. The application must describe activities it plans to undertake to achieve long-term success in expanding and improving vocational rehabilitation services, including supported employment.

The Senate amendment specifies that effective October 1, 1993, a State desiring to receive assistance under part C and part B must prepare and submit a statewide strategic plan for the same purposes set out in the House bill. The Senate amendment also specifies the content of the strategic plan.

The House recedes.

*(c) Process for developing application/plan*

(i) The House amendment specifies that the application shall cover a 3 year period and funds appropriated shall remain available until expended. The application must be reviewed annually to reflect the activities achieved and input from the State Rehabilitation Consumer and Business Advisory Council. The Senate bill specifies that the strategic plan shall cover a three year period and shall be updated on an annual basis to reflect actual experience and input from both the State Rehabilitation Advisory Council and the State Independent Living Council.

The House recedes.

(ii) The House bill provides for public hearings and input from the State Rehabilitation Consumer and Business Advisory Council prior to the development of the application. The Senate bill provides for similar input but also includes the State Independent Living Council.

The House recedes.

(iii) With slightly different wording, the House bill and the Senate amendment specify a procedure for addressing recommendations by Councils that have been rejected.

The House recedes.

(iv) The Senate amendment, but not the House bill, specifies that the strategic plan must be widely disseminated.

The House recedes.

(v) The House bill, but not the Senate amendment, specifies that the State must describe the activities it has undertaken in its State plan. For the comparable provisions in the Senate amendment see the notes on the State plan.

The House recedes.

(vi) The House bill, but not the Senate amendment, specifies that the Commissioner must pay the State its full allotment if it outlines the authorized activities consistent with part C and section 101.

The House recedes.

*(d) Use of funds*

The House bill specifies that the Commissioner shall pay the State or at the option of the State agency to a public or nonprofit agency or organization funds under this part. The Senate amendment specifies that a State may use funds directly or by grant, contract, or other arrangement.

The House recedes.

*(e) Authorized uses*

(i) The House bill, but not the Senate amendment, specifies that the State must carry out no less than one of the programs or activities set forth in the legislation.

The House recedes.

(ii) The House bill lists the following programs and activities:

On-the job training to promote the intent of the Americans with Disabilities Act,

Expand opportunities for traditionally unserved populations with specified disabilities,

Programs to maximize the use of rehabilitation technology, including assistive technology devices and services in employment settings,

Assisting employers in the employer's workplace consistent with the Americans with Disabilities Act, including short term technical assistance or other effective strategies,

Expand consumer involvement,

Expand opportunities for career advancement.

The Senate bill lists the following programs and activities:

Improve working relationships between vocational rehabilitation services and independent living services,

Expand opportunities by redesigning existing service options for individuals with the most severe disabilities,

Expand opportunities for classes of individuals who have unusual or complex rehabilitation needs,

Programs to maximize the use of rehabilitation technology,

Improve the service delivery system and working relationships with other agencies and entities through a range of activities,

Improve the evaluation system,

Support the comprehensive system of personnel development,

Support training of consumers, business, industry, and labor regarding the Rehabilitation Act Amendments of 1992, title V of this Act, and the Americans with Disabilities Act,

Support the funding of the State Rehabilitation Advisory Council and the State independent living council.

The Senate recedes to the House and the House recedes to the Senate with an amendment. The amendment incorporates all of the provisions in section 121(b) of the House bill and the authorized uses set out in section 123 of the Senate amendment with the exception of paragraph (2).

(iii) The House bill, but not the Senate amendment, specifies that the Commissioner may require that any portion of a State's allotment be expended in connection with only such projects as have first been approved by the Commissioner.

The House recedes.

*(f) Earmarking; authorization of appropriations*

The House bill, but not the Senate amendment, specifies that for fiscal year 1993–1997, the Commissioner shall reserve from the amount appropriated under section 100(b) a sum of not less than 1.5 percent to carry out the purposes of part C. The Senate amendment authorizes to be appropriated "such sums" for fiscal years 1993–1997.

The House recedes with an amendment to section 111(a) (1) of the Act specifying that the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under State plan for that State approved under section 101, including expenditures for the administration of the State plan "and development and implementation of the strategic plan as provided in section 101(a)(34)(A). Any State that receives such an amount shall expend, for development and implementation of the strategic plan, not less than the percentage of the allotment referred to in section 101(a)(34)(B)."

75. REVIEW OF DATA COLLECTION SYSTEM

With slightly different wording, both the House bill and the Senate amendment include a new section pertaining to a review of the data collection system.

(a) The House bill requires the Secretary of Education to undertake the review, while the Senate amendment requires the Commissioner of the Rehabilitation Services Administration to do the review.

The House recedes.

(b) The House bill, but not the Senate amendment, requires that within 18 months of enactment the recommendation shall be published in the Federal Register.

The Senate recedes to the House with an amendment. The amendment specifies that the Commissioner must include in the review of the current system for collecting and reporting data, consideration of adding the following data elements (see Note 33(b)): when it can be determined, other program participation during 3 years prior to application, number of jobs, hours worked and earnings in 3 years prior to application; type of major and secondary disability; date of onset of disabling condition; severity of disability; sources of referral; hours worked; size of place of employment and industry code at time of entry into the program and at the termination of service; number and cost of each service provided; types of public support received by the client; primary sources of economic support and amounts of public assistance received before and after receiving services; whether covered by health insurance from any source and whether health insurance is available through client's employment; supported employment status; and reasons for terminating services.

76. EXCHANGE OF DATA

The Senate amendment, but not the House bill, requires a memorandum of understanding between the Secretary of Education and the Secretary of the Department of Health and Human Services regarding the exchange of data of mutual importance of clients of the vocational rehabilitation program.

The House recedes.

77. EFFECTIVE DATE FOR STATE PLAN

The Senate recedes to the House and the House recedes to the Senate adding the following provision relating to effective dates for title I of the Act: "The Secretary of Education shall implement the amendments made by section 112 of this Act to section 101 of the Rehabilitation Act of 1973, as soon as is practicable after the date of enactment of this Act, consistent with the effective and efficient administration of the Rehabilitation Act of 1973, but not later than October 1, 1993."

RESEARCH

1. TITLE

The Senate amendment, but not the House bill, changes the title from "Research and Training" to "Research."

The House recedes.

1A. DECLARATION OF PURPOSE (INDEPENDENT LIVING)

The House bill, but not the Senate amendment, amends paragraph (1) of the current Declaration of Purpose by adding "independent living".

The House recedes.

2. DECLARATION OF PURPOSE (ASSISTIVE TECHNOLOGY DEVICES)

The House bill, but not the Senate amendment, amends paragraph (2) of the current Declaration of Purpose to change the term "devices".

The House recedes.

3. DECLARATION OF PURPOSE (FULL INCLUSION AND INTEGRATION)

The Senate amendment, but not the House bill, rewrites the first two paragraphs of the Declaration of Purpose to emphasize "full inclusion and integration" into society as the goal of projects funded under this title, with particular emphasis on improving the effectiveness of services under the Act and a comprehensive and coordinated approach, pursuant to the new long-range plan required by these amendments (see note 26).

The House recedes.

4. DECLARATION OF PURPOSE (PROCUREMENT OF TECHNOLOGY)

The House bill, but not the Senate amendment, amends paragraph (3) of the Declaration of Purpose to emphasize improvement of procurement processes for purchase of assistive technology devices and services, more utilization of same on a national level, and encouragement of adaptations or customizations.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads "(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to the procurement process for the purchase of rehabilitation technology; the utilization of rehabilitation technology on a national basis; and specific adaptations or customizations of products to enable individuals with disabilities to live more independently;"

5. DECLARATION OF PURPOSE (INFORMATION DISSEMINATION)

The House bill amends the Declaration of Purpose section to emphasize increased access to scientific and technological information and to encourage the collection, management and availability of assistive technology and related information "on a community and statewide level".

The Senate amendment amends the Declaration of Purpose to emphasize the widespread distribution of "practical information" generated by research and related activities in "usable formats" regarding "state-of-the-art" practices, improvements in services under the Act and new knowledge to a range of involved individuals.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads "(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information generated by research, demonstration projects, training, and related activities; and regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities to rehabilitation professionals, individuals with disabilities, and other interested parties;".

6. DECLARATION OF PURPOSE (EMPLOYMENT STRATEGIES)

The House bill, but not the Senate amendment, amends the Declaration of Purpose to emphasize identification of effective strategies to enhance productive employment opportunities.

The Senate recedes.

7. DECLARATION OF PURPOSE (RESEARCH OPPORTUNITIES)

The House bill, but not the Senate amendment, amends the Declaration of Purpose to emphasize a number of activities to increase opportunities for researchers who are members of traditionally underserved populations.

The Senate recedes to the House with an amendment that reads: "(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities."

8. DECLARATION OF PURPOSE (TRANSFER OF TECHNOLOGY)

The Senate amendment, but not the House bill, amends the Declaration of Purpose to emphasize the transfer and utilization of technology to enable more independent living.

The Senate recedes.

9. AUTHORIZATION OF APPROPRIATIONS

The House recedes.

10. NIDRR RESPONSIBILITIES (GENERAL)

The Senate amendment, but not the House bill, amends the purpose subsection for the

National Institute on Disability and Rehabilitation Research (hereinafter NIDRR) to clarify the responsibilities of the Institute and to restructure the subsection.

The House recedes.

11. NIDRR RESPONSIBILITIES (DISSEMINATION OF RESEARCH INFORMATION)

In slightly different ways, both the House bill and the Senate amendment expand the list of individuals and organizations to whom information is to be disseminated.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads: "(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related activities funded by the Institute, to other Federal, State, tribal, and local public agencies; private organizations engaged in research relating to rehabilitation or providing rehabilitation services; rehabilitation practitioners; and individuals with disabilities and the parents, family members, guardians, advocates, and authorized representatives of the individuals;".

12. NIDRR RESPONSIBILITIES (DISSEMINATION OF EDUCATION MATERIALS)

The House bill amends the current provision on dissemination to retain the improvement of "quality of life" caveat in the current statute but require "widespread" dissemination of the information to an expanded group of individuals or entities.

The Senate amendment amends the current provision to emphasize information "on ways to maximize the full inclusion and integration into" society and a number of other areas of individuals with disabilities.The Senate recedes to the House and the House recedes to the Senate with an amendment that reads: "(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to public and private entities including elementary and secondary schools and institutions of higher education; rehabilitation practitioners; individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved and underserved by programs under this Act); and the parents, family members, guardians, advocates, and authorized representatives of the individuals;".

13. NIDRR RESPONSIBILITIES (CONFERENCES, WORKSHOPS, AND SEMINARS)

The House bill amends the current provision on conferences, workshops and seminars by retaining the current emphasis, but adding consumer training and expanding the areas to be covered.

The Senate amendment amends the current provision to authorize activities directed to provide training on "full inclusion and integration" into society and a number of other areas of individuals with disabilities.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads: "(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology, pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social selfsuf ficiency of individuals with disabilities."

14. NIDRR RESPONSIBILITIES (ANNUAL REPORT)

The Senate amendment, but not the House bill, amends the requirement to keep Congress informed to require an annual report to the President and the appropriate committees of Congress and specifies the information to be provided.

The Senate recedes.

15. NIDRR RESPONSIBILITIES (DISSEMINATION ACTIVITIES)

Technical difference.

The Senate recedes.

16. NIDRR RESPONSIBILITIES (COOPERATIVE STUDIES)

The House bill amends the current provision on cooperative production of studies and reports to expand the populations to be informed and to include assessment in the topics to be considered.

The Senate amendment adds the Health Care Financing Administration to the list of Federal agencies to be involved, requires "widespread" dissemination and expands the list of populations to be informed.

The Senate recedes to the House with amendments striking "consumers" and inserting "individuals with disabilities," inserting "the Health Care Financing Administration," after "the Bureau of the Census," and inserting "widely" before "disseminating".

17. NIDRR RESPONSIBILITIES (CONSUMER SATISFACTION RESEARCH)

The House bill, but not the Senate amendment, adds "consumer satisfaction" to the research areas.

The Senate recedes.

18. NIDRR RESPONSIBILITIES (LONG-TERM OUTCOMES RESEARCH)

The House bill, but not the Senate amendment, adds research into the relationship of the provision of specific services and long-term vocational outcomes.

The Senate recedes.

19. NIDRR RESPONSIBILITIES (COORDINATION WITH ATTORNEY GENERAL)

The Senate amendment, but not the House bill, adds coordination with the Attorney General regarding coordination in activities related to implementation of the Americans with Disabilities Act of 1990 to the responsibilities of NIDRR.

The House recedes.

20. APPOINTMENT OF DIRECTOR OF NIDRR

The House bill, but not the Senate amendment, changes the Director of NIDRR from a Presidential appointment to a Secretarial appointment.

The Senate recedes.

21. QUALIFICATIONS OF DEPUTY DIRECTOR

The Senate amendment, but not the House bill, amends the provision relating to the Director of NIDRR to delete the requirement that the Director should be guided by the general policies of the National Council on Disability, to require that the Deputy Director have "substantial experience" in rehabilitation and in research administration, and to modify the provisions on rates of pay.

The House recedes.

22. RESEARCH FELLOWSHIPS

Technical difference.

The House recedes.

23. PEER REVIEW

The House bill, but not the Senate amendment, amends the provision relating to review committees to expand the pool of knowledgeable individuals to be considered and to require the Director to solicit nominations for the committees from the public and to publish the names of committee members.

The Senate recedes to the House with an amendment striking "rehabilitation field" and inserting the following: "rehabilitation field (including experts in the independent living field) competent to review research grants and programs, including knowledgeable individuals with disabilities and the parents, family members, guardians, advocates, and authorized representatives of the individuals. The Director shall solicit nominations for such peer review groups from the public and shall publish the names of the individuals selected. Individuals comprising each peer review group shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review. (2) In providing such scientific review, the Secretary shall provide for training of such individuals and mechanisms to receive input from individuals with disabilities, and from the parents, family members, guardians, advocates, and authorized representatives of the individuals."

The Conferees intend that only the names of the peer reviewers will be published. The Conferees do not intend for the Secretary to publish the names of the reviewers of specific applications or projects. The time of such publication shall be after such review has been conducted.

24. PEER REVIEW

The Senate amendment, but not the House bill, amends the provision relating to review by changing the placement of the panels, and expanding the pool of knowledgeable individuals to be considered for service on the panels, and to require the Secretary to provide training and to provide for input from consumers.

The Senate recedes.

25. LIMITATION ON DIRECT EXPENDITURES

Technical difference.

The Senate recedes.

26. LONG RANGE PLAN (GENERAL)

The Senate amendment, but not the House bill, amends the provision relating to the long-range research plan to delete its submission to Congress within 18 months of the date of enactment of this Act and to change the emphasis for research to be conducted from identification of problems encountered to identification of methods for "full inclusion and integration" of individuals with disabilities into society and a number of other areas.

The House recedes.

27. LONG RANGE PLAN (REQUIREMENTS)

The House bill adds to the plan elements involving widespread dissemination of results in accessible formats to a range of individuals, particularly those from minority or traditionally underserved populations.

The Senate amendment adds to the plan elements involving widespread dissemination of results in practical, usable formats to a range of individuals, including those from diverse cultural and ethnic backgrounds or unserved or underserved populations, and specifies that the plan be developed in consultation with the Rehabilitation Research Advisory Board established by the Senate amendment (see note 59) and the National Council on Disability and other named officials and that it be updated at least once every 5 years or as necessary.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads after paragraph (4) in the Senate amendment: "(5) specify plans for widespread dissemination of research results in accessible formats to rehabilitation practitioners, individuals with disabilities, and the parents, family members, guardians, advocates, and authorized representatives of

the individuals; (6) specify plans for widespread dissemination of research results that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs under this Act;", and renumbers the paragraphs (6) and (7) in the Senate amendment as paragraphs (7) and (8).

28. INTERAGENCY COOPERATION

The Senate amendment, but not the House bill, clarifies the provision on cooperation to cover the entire Title.

The House recedes.

29. PEDIATRIC, PACIFIC BASIN, AND RURAL RESEARCH

The House bill strikes the current separate authority for a program for pediatric rehabilitation research and a Research and Training Center in the Pacific Basin.

The Senate amendment modifies the provision relating to pediatric rehabilitation, the Pacific Basin and the delivery of rehabilitation services to rural areas to continue support of these programs.

The House recedes.

30. TRAINING OF REHABILITATION RESEARCHERS

The House bill amends the training provision to emphasize support for the "implementation and objectives of this Act".

The Senate amendment amends the training provision to specifically include individuals with disabilities and to emphasize support to "improve the effectiveness of services authorized under this Act."

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads: Section 202(k) is amended by striking "researchers" and all that follows and inserting the following: "rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act."

31. INTERAGENCY COMMITTEE

The Senate amendment, but not the House bill, amends the provision on the Interagency Committee to expand its membership, to require input from consumers and to delete the outdated report requirement.

The House recedes.

32. RESEARCH (GENERAL)

The Senate amendment, but not the House bill, amends the general directive relating to research activities to change the emphasis to development of methods, procedures and technology to maximize the "full inclusion and integration into society" and other life areas of individuals with disabilities (particularly the most severe disabilities) and to improve the effectiveness of services provided under this Act. Gives directive to emphasize research that supports certain titles of the Act.

The House recedes.

33. RESEARCH (STATE NEEDS)

The House bill, but not the Senate amendment, amends the provision relating to the determination of research emphasis to place weight on the needs as determined by States (as described through State plans).

The Senate recedes.

34. RESEARCH (UNSERVED OR UNDERSERVED POPULATIONS)

The Senate amendment, but not the House bill, amends the provision on research to clarify research on individuals who are homebound or institutionalized and to require particular attention to individuals from populations who are unserved or underserved.

The House recedes.

35. RESEARCH AND TRAINING CENTERS (INTEGRATED PROGRAM OF RESEARCH)

The House bill, but not the Senate amendment, amends the current provision relating to the responsibilities of the Rehabilitation Research and Training Centers to add providing an integrated program of research and providing technical assistance to a range of individuals and entities through workshops and other stated activities.

The House recedes to the Senate with an amendment amending the first sentence in section 202(b)(2)(A) of the Senate amendment to read: "Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which shall—".

36. RESEARCH AND TRAINING CENTERS (RESEARCH PROJECTS)

The Senate amendment, but not the House bill, rewrites this section which allows grants to pay all or part of the costs of the research projects authorized.

The House recedes.

37. RESEARCH AND TRAINING CENTERS (COLLABORATION)

The Senate amendment, but not the House bill, restates the authority for the Rehabilitation Research and Training Centers to allow them to be operated in collaboration with providers of rehabilitation services. Some technical language differences.

The House recedes.

38. RESEARCH AND TRAINING CENTERS (PURPOSE)

The House bill requires each Center to structure its research based upon specific needs in its geographic area, including, where appropriate, consideration of both rural and urban issues.

The Senate amendment requires each Center to conduct research and training on a coordinated and advanced basis, targeted toward the production of "new knowledge" that will improve rehabilitation methodology and service delivery, alleviate or stabilize disabling conditions, and promote maximum social and economic independence, provide training to enhance more efficient provision of services and provide other training programs.

The House recedes to the Senate with an amendment striking "and" at the end of (2)(B)(ii), striking the period at the end of (iii) and adding at the end of (2)(B)(iii), "; and (iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the parents, family members, guardians, advocates, and authorized representatives of the individuals, through conferences, workshops, public education programs, in-service training programs, and similar activities."

39. RESEARCH AND TRAINING CENTERS (AREAS OF RESEARCH)

The House bill specifically mentions individuals with mental retardation in the provision on living in the community.

The Senate amendment specifically includes "disability policy" as an area for research and specifies the continuation of certain research activities. Also, one technical difference on drafting language.

The House recedes to the Senate with an amendment adding after individuals with disabilities in (vi) the phrase "including individuals with mental retardation and other developmental disabilities."

40. RESEARCH AND TRAINING CENTERS (REQUIREMENTS)

The Senate amendment, but not the House bill, adds to the Rehabilitation Research and Training Centers provision requirements that training may be provided either directly or indirectly and that grants must be of sufficient size, scope, and quality to carry out the required activities. The Senate amendment, but not the House bill, also rewrites the requirements of current law.

The House recedes.

41. RESEARCH AND TRAINING CENTERS (GRANT APPLICATIONS)

The Senate amendment, but not the House bill, includes grant provisions relating to length, application submission, and review and rewrites the provision in indirect costs.

The House recedes to the Senate with an amendment inserting an additional subparagraph that reads "In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers."

42. RESEARCH AND TRAINING CENTERS (COMPETITIVE GRANTS)

The House bill, but not the Senate amendment, makes a technical and conforming change.

The House recedes.

43. REHABILITATION ENGINEERING RESEARCH CENTERS (GENERAL)

The House bill authorizes the establishment and support of Rehabilitation Engineering Research Centers to develop and disseminate innovative methods of applying a range of advanced research relating to technology and the solution of rehabilitation problems. Research could be in cooperation with public and nonprofit organizations to produce new scientific knowledge, methods, equipment, and devices. Research could also be to develop and disseminate innovative delivery models for cost-effective provision of rehabilitation engineering and assistive technology services in urban and rural areas to promote utilization of such services and devices, and to meet the employment and independent living needs of individuals with severe disabilities, to cooperate and coordinate with designated State agencies on information exchange and utilization of rehabilitation engineering and assistive technology, demonstrate and disseminate cost-effective delivery models, and to provide rehabilitation research training.

The Senate amendment authorizes the use of research grants to establish and support Rehabilitation Technology Research and Resource Centers operated by or in collaboration with institutions of higher education or nonprofit private organizations to conduct research demonstration projects and training activities regarding rehabilitation engineering, assistive technology devices and assistive technology services. The purpose would be to enhance the opportunities for, better meet the needs of, and address the barriers to individuals with disabilities in a number of areas. Such a center shall carry out research in a number of stated areas, including new and emerging technologies and design and usability of mass market products. Such Centers shall be consumer responsive and individual and family centered, and promote prompt utilization of a broad range of technologies, particularly in urban and rural settings. The amendment stipulates training activities.

The Senate recedes to the House and the House recedes to the Senate with an amendment combining the two versions.

44. REHABILITATION ENGINEERING RESEARCH CENTERS (AREAS OF FOCUS)

The Senate amendment, but not the House bill, gives specific "areas of focus" for the centers' activities.

The Senate recedes to the House and the House recedes to the Senate. See note 43.

45. REHABILITATION ENGINEERING RESEARCH CENTERS (ADVISORY COMMITTEES)

The Senate amendment, but not the House bill, requires each Center to have an Advisory Committee, with certain requirements, including the provision that a majority be individuals with disabilities (or their representatives) who are consumers of services. The centers are to coordinate with other Federal, State, and local agencies, to respond to the needs of all individuals who may benefit from the technology, to promote interchange of information and other data, and to prepare and submit reports and application amendments as required.

The Senate recedes to the House and the House recedes to the Senate. See note 43.

46. REHABILITATION ENGINEERING RESEARCH CENTERS (GRANT REQUIREMENTS)

The Senate amendment, but not the House bill, contains certain Center grant requirements and limits.

The Senate recedes to the House and the House recedes to the Senate. See note 43.

47. SPINAL CORD INJURY PROJECTS (GENERAL)

Technical difference, relating to the wording concerning the spinal cord injury research projects and the individuals to receive information.

The Senate recedes to the House with an amendment striking from (A)(i) "to practitioners, consumers" and all that follows and inserting "to rehabilitation practitioners, individuals with spinal cord injury, the parents, family members, guardians, advocates, and authorized representatives of such individuals, and organizations receiving financial assistance under this paragraph."

48. SPINAL CORD INJURY PROJECTS (OUTREACH)

Technical difference.

The Senate recedes.

49. SPINAL CORD INJURY PROJECTS (GEOGRAPHIC DISTRIBUTION)

Technical difference.

The Senate recedes.

50. RESEARCH (AUTHORITIES)

The Senate amendment, but not the House bill, makes a technical and conforming change to each research authority to change the current directive "Conduct" to the phrase "Research grants may be used to conduct".

The House recedes.

51. RURAL AND URBAN PERSONNEL PROJECTS

The House bill, but not the Senate amendment, amends the provision relating to personnel to add the term "urban".

The Senate recedes to the House with an amendment placing the authority for projects to attract and retain urban personnel in title VIII.

52. CHILDREN AND OLDER INDIVIDUALS WITH DISABILITIES PROJECTS

The Senate amendment, but not the House bill, includes an authority to conduct research on rehabilitation for children or older individuals with disabilities, including projects on adjustment by older workers with disabilities who are leaving the work force.

The House recedes.

53. PRESCHOOL RESEARCH PROJECTS

The House bill, but not the Senate amendment, amends the authority for preschool age research to include "assessment" to the allowable activities.

The Senate recedes.

54. MODEL TRAINING CENTERS

The House bill, but not the Senate amendment, amends the provision on training centers by replacing the terms "employment potential" and "potential" with the terms "employment needs" and "needs".

The Senate recedes to the House with an amendment changing the word "developing" to "addressing".

55. RESEARCH (STUDIES REGARDING BARRIERS TO REHABILITATION)

The House bill, but not the Senate amendment, adds three authorities for studies involving barriers to successful rehabilitation outcomes for individuals from minority backgrounds, factors which have created significant underrepresentation of minorities in rehabilitation professions, and factors which have created barriers to successful rehabilitation outcomes for individuals with neurological or related disorders.

The Senate recedes to the House with an amendment placing these authorities in title VIII.

56. SITE VISITS

The Senate amendment, but not the House bill, allows the Director to waive the site visit in certain instances involving grants above a certain level.

The Senate recedes.

57. RESEARCH (REHABILITATION TECHNOLOGY)

The Senate amendment, but not the House bill, makes a technical conforming change.

The Senate recedes.

58. NATIONAL COMMISSION ON EDUCATION AND REHABILITATION OF INDIVIDUALS WHO ARE BLIND AND VISUALLY IMPAIRED

The House bill, but not the Senate amendment, establishes a National Commission on Education and Rehabilitation of Individuals Who are Blind and Visually Impaired (hereinafter referred to as the Commission). The provision includes findings and requirements for the makeup of the Commission, including the appointment authority and the requirements for a majority to be blind or visually impaired consumers and that nominations for these positions be solicited and reviewed. The Commission shall study a range of issues, including but not limited to: the nature, quality, and adequacy of infant and early childhood education programs; elementary, secondary, postsecondary, adult and continuing education programs; and vocational rehabilitation, independent living, supported employment and other employment-related programs for individuals who are blind or visually impaired. Provisions regarding terms, vacancies, the selection of the chair, and other administrative and staff issues are included. Within 18 months, the Commission is to report its findings and recommendation for Federal policy and programs to the President and the Congress.

The House recedes.

59. RESEARCH ADVISORY COUNCIL

The Senate amendment, but not the House bill, establishes within the Department of Education a Rehabilitation Research Advisory Council (hereinafter referred to as the Council). The Council shall advise the Director on the establishment of research priorities as required for the long-range plan under section 202. The section includes provisions relating to appointment, terms of office, vacancies, compensation, and other administrative and staff provisions.

The House recedes with amendments striking the phrase "The Secretary shall establish" in section 205 (a) and inserting "Subject to the availability of appropriations, the Secretary shall establish" and striking subsection (f) providing compensation and expenses for the members of the Council and inserting a provision providing an honorarium and travel expenses for the members of the Council.

SUPPLEMENTARY SERVICE AND COMMUNITY REHABILITATION PROGRAMS TRAINING AND DEMONSTRATION PROJECTS

60. TITLE

Technical difference.

The House recedes.

61. DECLARATION OF PURPOSE (REORGANIZATION)

Technical difference.

The House recedes.

62. DECLARATION OF PURPOSE (GENERAL)

The Senate amendment, but not the House bill, reorganizes the Declaration of Purpose section and adds a new paragraph relating to a number of specific training activities.

The House recedes.

63. DECLARATION OF PURPOSE (REORGANIZATION)

Technical difference.

The House recedes.

64. DECLARATION OF PURPOSE (VOCATIONAL REHABILITATION SERVICES)

The Senate amendment, but not the House bill, amends the provision by deleting "training" and inserting "rehabilitation".

The House recedes.

65. DECLARATION OF PURPOSE (CONSTRUCTION)

Technical difference—see note 61, above.

The House recedes.

66. REORGANIZATION OF TITLE

The Senate amendment, but not the House bill, moves the current provisions under current Title III into a different order and adds a Table of Contents change. NOTE—there is no section 300.

The House recedes.

67. TRAINING (TECHNICAL ASSISTANCE)

The House bill amends the activities under training to include technical assistance.

The Senate recedes.

The Senate amendment specifies that the areas for training include "other services provided under this Act".

The House recedes. The Conferees understand that the regulations governing training grants under this section require that there be evidence of current professional accreditation by the designated accrediting agency in the professional field in which grant support is being requested. The Conferees strongly support the maintenance of this requirement to assure that the professionals who receive training under this section are adequately prepared to provide quality services to individuals with disabilities.

68. TRAINING (JOB DEVELOPMENT AND PLACEMENT PERSONNEL)

The Senate amendment, but not the House bill, amends the training requirement by deleting "specially" and inserting "specifically".

The House recedes.

69. TRAINING (REHABILITATION TECHNOLOGY PERSONNEL)

The House bill includes individuals "specifically" trained to provide rehabilitation technology services, and specifically references assistive technology devices and services. The Senate amendment has a similar amendment, but does not include the references.

The House recedes.

70. TRAINING (INDEPENDENT LIVING PROGRAM PERSONNEL)

The Senate amendment, but not the House bill, amends the term relating to independent living.

The House recedes.

71. TRAINING (SUPPORTED EMPLOYMENT PROGRAM PERSONNEL)

Technical difference on wording relating to supported employment programs.

The Senate recedes.

72. TRAINING (IMPARTIAL HEARING OFFICERS)

The House bill, but not the Senate amendment, expands the training areas to include impartial hearing officers.

The Senate recedes to the House with an amendment placing this authority in title VIII.

73. TRAINING (SCHOLARSHIPS)

The House bill, but not the Senate amendment, stipulates that funds under this section may be used for scholarships with necessary stipends and allowances.

The Senate recedes.

74. TRAINING (PERSONNEL FROM UNDERREPRESENTED GROUPS)

The House bill amends the provision relating to "due regard for training individuals with handicaps" to require submission of a detailed plan on the recruitment and training of individuals with disabilities and persons who are from other underrepresented groups so as to increase the number of such individuals providing services. These plans are to reflect the diverse populations in the State.

The Senate amendment amends the same provision to require submission of a detailed plan "to recruit and train members of minority groups and individuals with disabilities".

The Senate recedes to the House with an amendment striking "persons to reflect" and all that follows and inserting "persons so as to reflect the diverse populations of the United States, as part of the effort to increase the number of individuals with disabilities, and individuals who are members of minority groups, who are available to provide rehabilitation services."

75. TRAINING (REQUIREMENTS)

The House bill adds the requirement that the Commissioner provide training in the provisions of titles II and XVI of the Social Security Act related to work incentives.

The Senate amendment specifically requires training in the provisions of this Act and does not include the House referenced provisions.

The Senate recedes to the House and the House recedes to the Senate with an amendment that reads: in the last sentence, by striking ", in addition" and all that follows and inserting "furnish training regarding the services provided under this Act, and, in particular, services provided in accordance with amendments made by the Rehabilitation Act Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of section 504 of this Act, title I of the Americans with Disabilities Act of 1990, and the provisions of titles II and XVI of the Social Security Act that are related to work incentives for individuals with disabilities."

76. TRAINING (HISTORICALLY BLACK COLLEGES AND UNIVERSITIES)

The House bill, but not the Senate amendment, requires that the Commissioner, in carrying out this subsection on training, utilize Historically Black Colleges and Universities and other institutions of higher education with at least a 50 percent minority student population.

The Senate recedes.

77. TRAINING (TARGETED PERSONNEL)

The Senate amendment, but not the House bill, rewrites the provision on training priorities and (1) strikes the terms "rehabilitation engineering" and "workshop and facility administration" and replaces them with "rehabilitation technology" and "community rehabilitation personnel" and adds the caveat "vocational" to the term "rehabilitation counseling", and (2) strikes the phrases "specialized personnel in providing services to blind and deaf individuals", and ", including homebound and institutionalized individuals and individuals with handicaps with limited English-speaking ability", and replaces them with "personnel to provide services to individuals with specific disabilities or specific impediments to rehabilitation." Also, a technical difference with the House bill on language relating to unserved or underserved populations.

The House recedes.

78. TRAINING (PAYBACK OF SCHOLARSHIPS)

Technical difference, relating to length of required service.

The House recedes to the Senate with an amendment inserting an effective date for the changes in this provision.

The Conferees intend that a nonprofit agency or organization performing a broad range of services for individuals with disabilities should be included in the "nonprofit rehabilitation agency or related agency" that fulfills the employment obligation in lieu of paying back scholarships under this provision. The Conferees intend that the regulations regarding the payback provision should reflect the goal of attracting students to work in State agency or nonprofit rehabilitation programs.

79. TRAINING (REHABILITATION TECHNICIANS)

The House bill, but not the Senate amendment, requires the Commissioner to make two grants to support training of community liaisons.

The Senate recedes.

80. TRAINING (CAREER ENHANCEMENT/ COMPETENCY BASED TRAINING PROJECTS)

The House bill, but not the Senate amendment, requires the Commissioner to make two grants to support training for career enhancement or competency based training for current employees. The provision includes grant and administrative provisions and stipulates the activities to be supported.

The Senate recedes.

81. TRAINING (PROJECTS FOR EXISTING PERSONNEL)

The House bill, but not the Senate amendment, requires the Commissioner to enter into a cooperative agreement through a separate competition to support the grants authorized under this section (see note 80).

The Senate recedes.

82. TRAINING (INTERPRETERS)

The House bill amends the provision relating to interpreters by deleting the "Office of Information and Resources for Individuals with Disabilities" and inserting "Office of Deafness and Communicative Disorders".

The Senate recedes.

The Senate amendment amends the provision on interpreters to include services for individuals who are deaf-blind, to delete the limitation to 12 programs, and by striking the training requirement.

The House recedes.

83. TRAINING (COMPENSATION OF EXPERTS AND CONSULTANTS)

The Senate amendment, but not the House bill, amends the provision on compensation to delete "rehabilitation facilities" and insert "community rehabilitation programs" and to change the rate of compensation.

The House recedes.

84. TRAINING (INFORMATION AND TRAINING GRANTS)

The House bill, but not the Senate amendment, authorizes grants to provide training to individuals with disabilities and their families to enable them to more effectively work with rehabilitation professionals. The paragraph includes program, application and administrative provisions.

The Senate recedes to the House with amendments placing this authority in title VIII, striking from (e)(1) the phrase "particularly those who are members of groups that have been traditionally underserved." with the phrase "particularly those who are members of populations that have been unserved or underserved by programs under this Act.", striking subparagraph "(B)" and inserting "(B) be governed by a board of directors that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals or, if the nonprofit does not have such a board, such an organization shall have a membership which represents the interests of individuals with disabilities, and shall establish a special governing committee to operate the training and information programs under this section, that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals.", and adding provisions in the Senate amendment regarding submission of applications (5)(B) and review (7) not in the House bill.

85. TRAINING (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

86. TRAINING (INSERVICE TRAINING SET-ASIDE)

The Senate amendment, but not the House bill, reserves not less than 20 percent of the funds appropriated for this section (except where this would lead to a decrease in funding for ongoing projects, in which case a lesser amount would be reserved) for recruitment and retention, leadership training, and succession planning and training on these amendments.

The House recedes to the Senate with an amendment (1) striking in (2)(A) "at least 20 percent" and all that follows through "including projects designed—" and inserting "at least 15 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used either directly or indirectly for projects for inservice training of rehabilitation personnel, including projects designed—". Nothing in this section prohibits other public and nonprofit entities from providing the inservice training.

87. INDIVIDUALS WITH DISABILITIES EDUCATION ACT (TRAINING)

The House bill, but not the Senate amendment, amends the Individuals With Disabilities Education Act to allow the training of regular classroom teachers who provide services to individuals who are deaf in meeting the needs of such individuals.

The House recedes.

88. TRAINING (TABLE OF CONTENTS)

Technical difference relating to the Table of Contents.

The House recedes.

89. COMMUNITY REHABILITATION PROGRAMS (REHABILITATION TECHNOLOGY)

Technical difference.

The House recedes.

90. COMMUNITY REHABILITATION PROGRAMS (WEEKLY ALLOWANCE)

Technical difference.

The Senate recedes.

91. COMMUNITY REHABILITATION PROGRAMS (AMOUNT OF ALLOWANCE)

Technical difference.
The Senate recedes.

92. COMMUNITY REHABILITATION PROGRAMS (GRANT RECIPIENTS)

Technical difference.
The Senate recedes.

93. LOAN GUARANTEES (TITLE)

Technical difference.
The Senate recedes.

94. COMMUNITY REHABILITATION PROGRAMS (TABLE OF CONTENTS)

Technical difference relating to the Table of Contents.
The House recedes.

95. COMPREHENSIVE REHABILITATION CENTERS (GENERAL)

The Senate amendment, but not the House bill, amends the provision on comprehensive rehabilitation centers by striking "facility" and inserting "center".
The House recedes.

96. COMPREHENSIVE REHABILITATION CENTERS (AUTHORIZATION OF APPROPRIATIONS)

Technical difference on the drafting of the authorization of appropriations.
The House recedes.

97. SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

98. SPECIAL DEMONSTRATIONS (UNSERVED AND UNDERSERVED)

The House bill, but not the Senate amendment, amends the special demonstration programs authority to include grants to expand and improve services to unserved or underserved populations, and to add career advancement.
The Senate recedes to the House with an amendment striking the phrase "blind or deaf individuals and individuals who are unserved or underserved by the vocational rehabilitation system" and substituting the phrase "individuals who are members of populations that are unserved or underserved by the programs under this Act, individuals who are blind, and individuals who are deaf,".

99. SPECIAL DEMONSTRATIONS (CONSTRUCTION AND RENOVATION)

The Senate amendment, but not the House bill, amends the special demonstration programs authority to delete renovation and construction.
The House recedes.

100. SPECIAL DEMONSTRATIONS (CHOICE)

The House bill, but not the Senate amendment, authorizes grants to increase consumer control in the rehabilitation process, including selection of the providers of vocational rehabilitation services. Program and activity requirements are included, and administrative, application, funding and evaluation caveats are part of the provision.
The Senate recedes to the House with amendments placing this authority in title VIII, striking the word "control" wherever it appears and inserting the word "choice" and by striking the word "consumer" wherever it appears and inserting the word "client", in (7)(B) add the phrase "as defined in section 7(8) (A)" after "an individual with a disability", and in (8) add the phrase "the cost effectiveness of the project," after "implementation issues,".

101. SPECIAL DEMONSTRATIONS (TRANSPORTATION)

The House bill, but not the Senate amendment, requires the Commissioner to make grants to fund projects to provide transportation services for eligible individuals. Eligibility requirements, and application and administrative caveats are included. Nothing in this provision is to be interpreted as limiting the rights or responsibilities under any other provision of this Act or the Americans With Disabilities Act of 1990, or any other provision of law.
The Senate recedes to the House with an amendment placing this authority in title VIII.

102. SPECIAL DEMONSTRATIONS (CASE CLOSURE).

The House bill, but not the Senate amendment, authorizes grants to develop alternatives to traditional case closure practice.
The Senate recedes to the House and the House recedes to the Senate with an amendment placing this authority in title VIII and with an amendment that reads: "The Commissioner shall make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations related to vocational rehabilitation outcomes. Such projects and demonstrations may include activities providing alternatives to case closure practice and identifying and implementing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with the most severe disabilities. Each recipient of such a grant shall (1) identify, develop, and test exemplary models that can be replicated; and (2) identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities."

103. SPECIAL DEMONSTRATIONS (APPROPRIATE INCENTIVES)

The Senate amendment, but not the House bill, authorizes grants to provide appropriate incentives to vocational rehabilitation counselors to achieve high quality placements.
The Senate recedes to the House and the House recedes to the Senate. See note 102.

104. SPECIAL DEMONSTRATIONS (YOUTHS WITH DISABILITIES)

The House bill, but not the Senate amendment, amends the term referring to the Individuals with Disabilities Education Act. The Senate recedes.

105. SPECIAL DEMONSTRATIONS (SUPPORTED EMPLOYMENT)

The Senate amendment, but not the House bill, amends the special projects relating to supported employment by deleting the terms "rehabilitation facilities" and "community based rehabilitation facilities" and inserting the term "community rehabilitation programs" both places.
The House recedes.

106. SPECIAL DEMONSTRATIONS (NATURAL SUPPORTS)

The House bill, but not the Senate amendment, amends the special projects relating to supported employment to add the effectiveness of natural supports to the activities involved.
The Senate recedes to the House with an amendment that moves this provision to section 311(d)(1)(A) and inserts the word "continuing".

107. SPECIAL DEMONSTRATIONS (SUPPORTED EMPLOYMENT PROJECTS FOR INDIVIDUALS WHO ARE LOW FUNCTIONING AND DEAF OR HARD-OF-HEARING)

The House bill, but not the Senate amendment, requires that no less than two grants shall be made to serve low-functioning and hard-of-hearing individuals.
The Senate recedes.

108. SUPPORTED EMPLOYMENT (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

109. SPECIAL DEMONSTRATIONS (SERVICES FOR ADULTS WHO ARE DEAF)

The House bill, but not the Senate amendment, authorizes grants to provide a range of services (which must include educational and training services not otherwise available) to low-functioning adults who are deaf (including those with other disabling conditions).
The Senate recedes.

110. SPECIAL DEMONSTRATIONS (TRANSITIONAL PLANNING SERVICES)

The Senate amendment, but not the House bill, amends the transitional' grant provision by striking the paragraph authorizing a separate grant to a predominately rural western State.
The Senate recedes.

111. TRANSITIONAL PLANNING SERVICES (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

112. SPECIAL DEMONSTRATIONS (EARLY INTERVENTION FOR ADULTS WITH CHRONIC, PROGRESSIVE DISEASE)

The House bill, but not the Senate amendment, adds an authority for grants to serve working adults who are recently determined as having a chronic and progressive disease which may be severely disabling. Grants shall be to facilitate job retention or entry into new careers and employment.
The Senate recedes to the House with an amendment placing this authority in title VIII.

113. SPECIAL DEMONSTRATIONS (DISTANCE LEARNING THROUGH TELECOMMUNICATIONS)

The House bill, but not the Senate amendment, requires the Commissioner to make at least three grants to institutions of higher education to form regional partnerships to provide inservice training through telecommunications. Application, grant, definitions, and administrative caveats are included.
The Senate recedes to the House with an amendment placing this authority in title VIII.

114. NATIONAL COMMISSION ON REHABILITATION SERVICES

The House bill, but not the Senate amendment, establishes a National Commission on Rehabilitation Services to study the nature, quality, and adequacy of vocational rehabilitation, independent living, supported employment, research, training, and other programs authorized under this Act. The Commission shall submit recommendations to the President and the Congress regarding revisions to the Act designed to further the employability, independence, and integration of persons with disabilities into the workplace and the community. The provision describes the duties and administrative provisions of the Commission, and sets forth provisions for the composition, the appointments (including the chairperson) and compensation of members and staff.
The Senate recedes to the House with amendments placing this authority in title VIII, striking the phrase "There is hereby established" in (k)(1) and inserting the phrase, "Subject to the availability of appropriations, there is hereby established", striking the word "eighteen" in (2)(A) and inserting the word "fifteen", by striking in (2)(B) the

word "six" each time it appears and inserting the word "five", and striking subparagraph (5)(A) and inserting a provision providing an honorarium and travel expenses for the members of the Commission.

115. MIGRATORY WORKERS (GRANT RECIPIENTS)

The Senate amendment, but not the House bill, amends the provision relating to migratory workers to allow grants to nonprofit agencies working in collaboration with the designated State agency.

The House recedes.

116. MIGRATORY WORKERS (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

117. SPECIAL RECREATIONAL PROGRAMS (FEDERAL SHARE)

Technical difference relating to the Federal share (see note 127).

The House recedes.

118. SPECIAL RECREATIONAL PROGRAMS (PARTICIPANTS)

The House bill, but not the Senate amendment, includes a change in terms.

The House recedes.

119. SPECIAL RECREATIONAL PROGRAMS (ACTIVITIES)

Technical difference.

The Senate recedes.

120. SPECIAL RECREATIONAL PROGRAMS (GRANT PERIOD)

The Senate amendment, but not the House bill, allows the Commissioner to waive the three year limitation on the special recreational programs.

The House recedes. The Conferees intend that the waiver provision, if exercised, would allow the entity to recompete.

121. SPECIAL RECREATIONAL PROGRAMS (EVALUATION SYSTEM)

The House bill, but not the Senate amendment, requires development of an evaluation system within 180 days of enactment. The Senate recedes.

122. SPECIAL RECREATIONAL PROGRAMS (GRANTEE'S ANNUAL REPORT)

The House bill, but not the Senate amendment, requires an annual report from the grantee, making continuation of the grant contingent upon submission and evaluation.

The Senate recedes.

123. SPECIAL RECREATIONAL PROGRAMS (ASSURANCES)

Technical difference in drafting.

The Senate recedes.

124. SPECIAL RECREATIONAL PROGRAMS (DISSEMINATION)

The Senate amendment, but not the House bill, requires the application for a recreation grant to include a description of how the results of the project will be made generally available. Also, there are technical differences in the drafting of the provision requiring the submission of proof that the project will be continued after the cessation of Federal funding.

The House recedes.

125. SPECIAL RECREATIONAL PROGRAMS (COMMISSIONER'S ANNUAL REPORT)

The House bill, but not the Senate amendment, requires an annual report by the Commissioner.

The Senate recedes.

126. SPECIAL RECREATIONAL PROGRAMS (CONTINUATION OF SERVICES)

The House bill requires the grantee to maintain the same level of services in the second and third year of the project as provided in the first year.

The Senate amendment requires the grantee to provide "the same level of services over a 3 year project period".

The House recedes.

127. SPECIAL RECREATIONAL PROGRAMS (FEDERAL SHARE)

The House bill sets the Federal share in a project as 100 percent the first year, 75 percent the second year and 50 percent the third year.

The Senate amendment sets the Federal share in a project as 90 percent the first year, 75 percent the second year and 50 percent the third year.

The Senate recedes.

128. SPECIAL RECREATIONAL PROGRAMS (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

129. RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

130. DEMONSTRATION PROJECTS (CHOICE)

The Senate amendment, but not the House bill, authorizes in title VIII grants to States and public and nonprofit agencies and organizations to fund projects to increase client choice, including the choice of providers of vocational rehabilitation services (see note 100). Activities, application, administrative and evaluation caveats are included in the provision.

The Senate recedes.

131. DEMONSTRATION PROJECTS (TRANSITION)

The Senate amendment, but not the House bill, authorizes in title VIII grants to public and nonprofit agencies and organizations to fund projects to provide community based, coordinated services to facilitate transition of individuals with disabilities from rehabilitation hospital or nursing (or similar) programs to programs providing independent living services. Activities, application, evaluation, and administrative caveats are included in the provision.

The House recedes.

132. STUDIES, SPECIAL PROJECTS, AND DEMONSTRATION PROJECTS TO STUDY MANAGEMENT AND SERVICES DELIVERY

The Senate amendment, but not the House bill, authorizes in title VIII grants to study, or conduct projects related to, management or delivery systems under this Act.

The House recedes.

133. DEMONSTRATION PROJECTS (UPGRADE WORKER SKILLS)

The Senate amendment, but not the House bill, authorizes in title VIII grants to partnerships or consortia including private employers to upgrade workers skills to ensure that individuals with disabilities remain competitive in the work force. Period, application, activity, definition, and Federal share limitation caveats are included in the provision.

The Senate recedes.

134. TRAINING INITIATIVES

The Senate amendment, but not the House bill, authorizes in title VIII grants to meet unmet and emerging needs in the area of rehabilitation training. This would be done through the establishment and support of rehabilitation training projects in a wide range of areas and involving individuals who are entering the field(s) or who are upgrading or adding to current skills. Projects could be conducted by a broad range of methods. Application and administration caveats are included in the provision.

The Senate recedes.

135. INFORMATION AND TRAINING GRANTS

The Senate amendment, but not the House bill, authorizes in title VIII grants to provide information and training to specified individuals to enable them to work more effectively with professionals in meeting their vocational rehabilitation needs (see note 84). Application, administrative, eligibility, consultation, review, and definition caveats are included in the provision.

The Senate recedes.

136. BRAILLE TRAINING GRANTS

The Senate amendment, but not the House bill, authorizes in title VIII grants to provide training to service providers in the use of Braille.

The House recedes to the Senate with an amendment striking the word "may" in the first sentence and inserting the word "shall."

137. RESEARCH INITIATIVES

The Senate amendment, but not the House bill, authorizes in title VIII additional research grants: 1) to establish a Rehabilitation Technology Research and Resource Center to conduct research in areas not otherwise covered under the Research provision of the Act but identified as emerging program trends and technologies, as identified through public and Rehabilitation Advisory Council input, 2) to establish model programs involving comprehensive, multi-disciplinary services similar to those authorized for individuals with spinal cord injuries, and 3) to establish model personal assistance and other programs.

The House recedes with an amendment deleting subparagraph (a)(2) relating to a Rehabilitation Technology Research and Resource Center.

138. SEPARATE BUDGET ACCOUNT

The Senate amendment, but not the House bill, establishes in title VIII a separate budget account for the purpose of accounting for appropriations and authorizations under this title.

The House recedes to the Senate with an amendment in the appropriate place of both sections 302 and 311 of title III that reads: "(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund special training initiatives, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund the special training initiatives described in section 803. (2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII." The amendment to section 311 is the same with the exception that the reference to "special training initiatives," is a reference to "special demonstration programs, projects, and activities."

NATIONAL COUNCIL ON DISABILITY

1. COMPOSITION OF THE COUNCIL

The House bill, but not the Senate amendment, specifies that the members of the Council shall be broadly representative of minority and other specified individuals and groups.

The Senate recedes.

2. PURPOSE

The Senate amendment, but not the House bill, rewrites the purpose section to make in

comport with the Americans with Disabilities Act.

The House recedes.

3. TERMS

(a) The Senate amendment, but not the House bill, modifies the provisions governing the appointment of the initial council.

The House recedes.

(b) Both the House bill and the Senate amendment provide for term limits. The House bill, but not the Senate amendment, specifies that members serving on the date of enactment of the Rehabilitation Act Amendments of 1992 may be reappointed for an additional term.

The House recedes to the Senate with an amendment specifying that no member of the Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. The amendment also clarifies that the term "full term" means a term of three years and the term "date of initial service" means with respect to a member, the date on which the member is sworn in.

4. DUTIES OF THE COUNCIL

*(a) Research*

The House bill specifies that advice to National Institute on Disability Rehabilitation Research should be with respect to "policies and conduct"; the Senate amendment refers to "policies and administration."

The Senate recedes.

*(b) Interagency Disability Coordinating Council*

The House bill, but not the Senate amendment, specifies that the National Council should identify priorities for the Interagency Council.

The Senate recedes to the House with an amendment that adds the following paragraph: "(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities,".

*(c) General policies and programs*

The Senate amendment, but not the House bill, inserts the phrase "policies, programs, practices, and procedures" instead of the phrase "all policies, programs, and activities."

The House recedes.

*(d) Facilitation of policies*

The Senate amendment, but not the House bill, strikes current law (section 401(a)(5) and makes it more generic by assessing whether Federal policies and procedures facilitate or impede the promotion of policies articulated in the statement of purpose.

The House recedes.

*(e) Recommendations to policymakers*

With slightly different wording, the House bill and the Senate amendment specify the authority of the National Council to make recommendations to Federal officials.

The Senate recedes.

*(f) Americans With Disabilities Act Watch Centers*

The House bill, but not the Senate amendment, directs the Council to establish Americans With Disabilities Act Watch Centers.

The Senate recedes to the House with an amendment striking the phrase "establish and operate Americans with Disabilities Act Watch Centers".

*(g) Report of activities*

The House bill, but not the Senate amendment requires an annual report describing the activities and accomplishments of the Council.

The Senate recedes.

*(h) National disability policy progress report*

(i) With slightly different wording, the House bill and the Senate amendment direct the National Council to issue an annual report regarding the status of national disability policy in the country.

The Senate recedes.

(ii) The Senate amendment, but not the House bill, specifies that the report shall be referred to as "National Disability Policy: A Progress Report."

The House recedes.

(iii) The House bill specifies that the report must be submitted not later than October 31, 1993 and annually thereafter; the Senate amendment sets the date as October 30.

The Senate recedes.

(iv) The House bill refers to the Congress and the Senate amendment refers to the appropriate committees of the Congress.

The Senate recedes to the House with an amendment inserting in the first sentence of (b)(1) the phrase "the appropriate committees of" before "the Congress".

(v) In addition to the specific topics listed in the House bill, the Senate amendment includes training, prevention, and early intervention.

The House recedes.

(vi) The Senate amendment, but not the House bill, specifies that the National Council shall include in a report submitted not later than October 30, 1995, information about the implementation of the Rehabilitation Act Amendments of 1992.

The Senate recedes.

5. COMPENSATION OF MEMBERS

The House bill specifies level 4 of the Senior Executive Service as the appropriate reference for compensation of members; the Senate amendment references level V.

The Senate recedes.

6. COMPENSATION OF STAFF

*(a) Number of staff*

The Senate amendment, but not the House bill, lifts the cap on the number of staff.

The Senate recedes. The Conferees intend that funds made available under this title will not be used to permit the indiscriminate travel and attendance at international conferences held abroad. Therefore, the Conferees intend that only 1 member from the National Council may be designated to attend no more than two international disability conferences if the Board determines that these conferences are relevant in providing significant knowledge and information to directly affect disability policy in the United States.

*(b) Compensation*

The House bill specifies level 4 of the Senior Executive Service as the appropriate reference for compensation of temporary or intermittent staff; the Senate amendment references level V.

The Senate recedes.

7. USE OF PERSONNEL OF FEDERAL AGENCIES

The House bill, but not the Senate amendment, authorizes the National Council to use staff, information, and facilities from Federal agencies.

The Senate recedes.

PROVISIONS RELATED TO RIGHTS AND ADVOCACY

1. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS PROGRAM

*(a) Location*

The House bill, but not the Senate amendment, moves the PAIR program from title VII of the Act to Title V.

The Senate recedes.

*(b) Purpose*

With slightly different wording, the House bill and the Senate amendment include a similar purpose statement for the PAIR program.

The Senate recedes. The Conferees intend that eligible persons for PAIR services include those persons who have experienced discrimination covered by the Americans with Disabilities Act.

*(c) System requirements*

(i) The House bill, but not the Senate amendment, specifies that an eligible system must submit an application when the grant is discretionary.

The Senate recedes to the House with an amendment striking the phrase "when the grant is discretionary" from subsection (b).

(ii) The House bill specifies that the eligible system must have in effect a system to protect and advocate for the rights of individuals with disabilities and have specified general authorities. The Senate bill specifies that the system must have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act.

The Senate recedes to the House and the House recedes to the Senate with an amendment blending the two provisions.

(iii) The House bill, but not the Senate amendment, specifies that the eligible system must provide information on and make referrals to programs addressing the needs of individuals with disabilities in the State.

The Senate recedes.

(iv) With slightly different wording, the House bill and the Senate amendment specify that an eligible system must develop a statement of objectives and priorities and establish a grievance procedure.

The Senate recedes.

*(d) Disclosure*

The House bill, but not the Senate amendment, includes limitations on the disclosure of the identity of personally identifiable information pertaining to individuals requesting assistance.

The Senate recedes.

*(e) Assurances*

With slightly different wording, the House bill and the Senate amendment, include a supplement, not supplant provision. The Senate amendment, but not the House bill, also authorizes the Commissioner to require additional assurances. See below under the definition of eligible system for the comparable provision in the House bill.

The Senate recedes to the House and the House recedes to the Senate with an amendment that moves this provision to the section on applications and specifies that the eligible system must provide assurances to the Secretary that funds made available under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purpose for which Federal funds are provided and not to supplant such non-Federal funds.

*(f) Definition of eligible system*

With slightly different wording, the House bill and the Senate amendment include a definition of the term "eligible system."

The House recedes.

The House bill, but not the Senate amendment, specifies that the assurances provided by the Governor for part C of the Developmental Disabilities Assistance and Bill of Rights Act shall be the same for this section.

The House recedes.

The Senate amendment, but not the House bill, specifies that in order to be eligible, an entity must meet the requirements of section 734, as added by the Senate amendment.

The House recedes.

*(g) Nature of the program based on appropriation level*

The House bill makes the program a competitive grant program when appropriations are less than $10 million and a formula grant program when the appropriation is $10 million or more. In both cases, the purpose is to develop outreach strategies and plan and implement programs. The Senate amendment establishes a formula grant program, regardless of the appropriation level, but specifies that when the appropriation is less than $5.5 million, the responsibilities include planning, outreach, and carrying out the program.

The Senate recedes to the House with an amendment. The amendment includes the Senate trigger of $5.5 million; the House policy of making the program competitive when the appropriation is less than $5.5 million; and the Senate policy of making the program a formula grant when the appropriation level is at or exceeds $5.5 million.

*(h) State allotments when appropriations less than specified amount*

The Senate amendment, but not the House bill, specifies that when the appropriations are less than $5.5 million, each eligible system is entitled to an equal amount, subject to a limitation applicable to certain systems for fiscal year 1993. Territories are not eligible.

The Senate recedes. See (g) above.

*(i) State allotments when appropriations equal or exceed a specified amount*

The House bill specifies that when the appropriation equals or exceeds $10 million, the funds shall be allotted among the States by formula on the basis of population, with a minimum allotment of $100,000 or one-third of 1 percent, whichever is greater. Territories shall be allotted $50,000. Minimum allotments may be increased in accordance with the policy set forth in section 142(b) (2) of the Developmental Disabilities Assistance and Bill of Rights Act.

The Senate amendment specifies that when the amount of appropriations equals or exceeds $5.5 million, after making reservations for training and technical assistance, the Secretary may make allotments on the same basis as in the House bill (with slightly different phrasing).

The House recedes.

The Senate amendment, but not the House bill, includes a provision relating to reallotment.

The House recedes.

*(j) Delegation*

The Senate amendment, but not the House bill, authorizes the Secretary of Education to delegate the administration of the program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

The House recedes.

*(k) Unobligated funds*

The House bill, but not the Senate amendment, specifies that unobligated funds remain available for obligation for the next fiscal year.

The Senate recedes.

*(l) Administrative costs*

The House bill, but not the Senate amendment, specifies that a State may not use more than 5 percent of any allotment for the cost of monitoring the administration of the system.

The Senate recedes.

*(m) Reporting*

The House bill, but not the Senate amendment, requires the submission of an annual report to Congress.

The Senate recedes.

*(n) Authorization of appropriations*

The House bill authorizes for appropriation $1,109,000 for fiscal year 1993 and such sums thereafter. The Senate amendment specifies "such sums" fiscal years 1993–1997.

The House recedes.

*(o) Reservation for training and technical assistance*

The House amendment reserves 2 percent. The Senate amendment reserves between 1.8 and 2.2 percent.

The House recedes.

2. TITLE

Both the House bill and the Senate amendment change the name of the title of title V.

The Senate recedes.

3. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES AT THE FEDERAL LEVEL (SECTION 501 OF THE ACT)

*(a) Interagency Committee*

With minor differences, both the House bill and the Senate amendment provide authority for the Joint chairmanship of the Interagency Committee.

The House recedes.

*(b) Standards*

The Senate amendment, but not the House bill, provides that the standards used for nonaffirmative action employment discrimination shall be the same standards used under the Americans with Disabilities Act.

The House recedes.

4. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (SECTION 502 OF THE ACT)

*(a) References*

The Senate amendment, but not the House bill, provides for the Architectural and Transportation Barriers Compliance Board to be referred to as the "Access Board."

The House recedes.

*(b) Members of the Board*

With a minor drafting difference, both the House bill and the Senate amendment require that seven of the members of the Board will be persons with disabilities.

The Senate recedes.

*(c) Staggered terms*

With minor drafting differences, both the House bill and the Senate amendment provide for staggered terms for the Board.

The Senate recedes.

*(d) Compensation level*

The Senate amendment, but not the House bill, makes a technical change to paragraph (3) and to the compensation level in paragraph (5) (A).

The House recedes to the Senate with an amendment setting the compensation level at Senior Executive Service, Level IV.

*(e) Functions of the Board*

With minor drafting differences, both the House bill and the Senate amendment list the functions of the Board.

The Senate recedes.

*(f) Interagency agreements*

With minor drafting differences, both the House bill and the Senate amendment provide for interagency agreements. The Senate amendment, but not the House bill, authorizes the Access Board to transfer funds to another entity for technical assistance.

The House recedes.

*(g) Compensation of experts*

The Senate amendment, but not the House bill, provides a technical change in the level of compensation for experts and consultants of the Board.

The House recedes to the Senate with an amendment setting the compensation level at Senior Executive Service, Level IV.

*(h) Reporting.*

With minor drafting differences, both the House bill and the Senate amendment provide for reports from the Board to the Congress.

The Senate recedes.

*(i) Gifts etc.*

With minor drafting differences, both the House bill and the Senate amendment specify that the Board will publish regulations regarding gifts, etc. and the appearance of a conflict of interest.

The Senate recedes with a technical amendment.

*(j) Authorization of appropriations*

With minor drafting differences both the House bill and the Senate amendment authorize such sums not to exceed $3,000,000 for fiscal years 1993 through 1997.

The Senate recedes to the House and the House recedes to the Senate with an amendment. Section 502(i) is amended by striking "fiscal years 1987 through 1992," and all that follows in current law (including the $3.5 million ceiling) and inserting "fiscal years 1993 through 1997."

5. EMPLOYMENT UNDER FEDERAL CONTRACT (SECTION 503 OF THE ACT)

*(a) Trigger*

The Senate amendment, but not the House bill, increases the trigger for section 503 from $2,500 to $10,000.

The House recedes.

*(b) Scope of provision*

The Senate amendment, but not the House bill, strikes the phrase "in employing persons to carry out such contract" from section 503(a).

The House recedes.

*(c) Waiver*

The Senate amendment, but not the House bill, specifies that the Secretary of Labor may waive the requirements of the affirmative action clause under certain circumstances.

The House recedes.

*(d) Standards and procedures*

The Senate amendment, but not the House bill, specifies that the standards used to determine nonaffirmative action employment discrimination shall be the same standards used under the Americans with Disabilities Act. The Senate amendment also directs the Secretary to develop coordination procedures.

The House recedes.

6. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS (SECTION 504 OF THE ACT)

The Senate amendment, but not the House bill, specifies that the standards used to determine whether section 504 has been violated in a complaint alleging employment discrimination shall be the same standards applied under the Americans with Disabilities Act. The House recedes.

7. SECRETARIAL RESPONSIBILITIES (SECTION 506 OF THE ACT)

The Senate amendment, but not the House bill, makes several technical amendments.

The House recedes.

8. INTERAGENCY COORDINATING COUNCIL (SECTION 507 OF THE ACT)

The House bill, but not the Senate amendment, includes several changes to the Interagency Coordinating Council.

(a) The Council shall be under the direction of the National Council on Disability.

The Senate recedes with an amendment striking the phrase ", under the direction of the National Council on Disability,".

(b) Additional members are specified.

The Senate recedes.

(c) Functions are expanded to include: developing and implementing agreements regarding the promotion of coordination in all activities of Federal entities to achieve the full integration, independence, and productivity of individuals with disabilities and carrying out studies and other activities as directed by the National Council on Disability.

The Senate recedes to the House with an amendment striking,, the phrase ", as directed by the National Council on Disability"and inserting ", with advice from the National Council on Disability,".

(d) The House bill, but not the Senate amendment, specifies that the report must include activities regarding promoting and meeting the employment needs of individuals with disabilities. The Report should include comments submitted by the National Council on Disability.

The Senate recedes.

9. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES (SECTION 508 OF THE ACT).

*(a) Title*

The Senate amendment, but not the House bill, amends the title of the section to read ""Electronic and Information Technology Accessibility Guidelines."

The House recedes.

*(b) Standards*

With slightly different wording, the House bill and the Senate amendment specify the standards.

The House recedes.

EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

1. TITLE.

Technical Difference—The House bill title is singular and the Senate amendment title is plural. The House bill but not the Senate amendment has a Subtitle A, Community Service Pilot Program.

The Senate recedes.

2. SHORT TITLE

The House bill but not the Senate amendment strikes "handicaps" and inserts "disabilities".

The Senate recedes.

3. PILOT PROGRAMS (ELIGIBILITY)

Technical difference.

The House recedes.

4. PILOT PROGRAMS (COSTS)

The Senate amendment but not the House bill strikes "attendant care" and inserts "personal assistance services".

The House recedes.

5. PILOT PROGRAMS (INCOME EXCEPTION)

The Senate amendment but not the House bill strikes "attendant care" and inserts "personal assistance services"

The House recedes.

6. PILOT PROGRAMS (ATTENDANT CARE DEFINITION)

The House bill but not the Senate amendment strikes the term "mentally retarded" and inserts "other individuals with a severe disability" in the definition of attendant care. The Senate amendment strikes the entire definition of attendant care.

The House recedes.

7. PILOT PROGRAM (AUTHORIZATION OF APPROPRIATIONS)

The House bill extends the authorization from fiscal years 1994 through 1997 and the Senate amendment extends the authorization from fiscal years 1993 through 1997.

The House recedes..

8. PROJECTS WITH INDUSTRY (GENERAL)

The House bill but not the Senate amendment makes this a Subtitle B, Projects with Industry.

The Senate recedes.

9. PROJECTS WITH INDUSTRY (PURPOSE)

The Senate amendment rewrites the purpose while the House bill only adds career opportunities to the purpose.

The House recedes to the Senate with an amendment adding the phrase "and career" after the word "job" the first three times it appears, and adding the phrase "and career advancement" after the phrase "Job placements".

10. PROJECTS WITH INDUSTRY (GRANTEES)

The Senate amendment but not the House bill adds Indian tribes and tribal organizations to the list of entities that can jointly establish a project.

The House recedes to the Senate with an amendment adding the phrase "and career" after the word "job" wherever it appears.

11. PROJECTS WITH INDUSTRY (REQUIREMENTS)

The House bill but not the Senate amendment adds career, career opportunities and career advancement to the project requirements.

The House recedes.

12. PROJECTS WITH INDUSTRY (BUSINESS ADVISORY COUNCILS)

The Senate amendment but not the House bill adds individuals with disabilities to the business advisory council.

The House recedes to the Senate with an amendment adding the phrase "and career" after the word "job" each time it appears and the phrase "and careers" after the word "jobs" each time it appears.

13. PROJECTS WITH INDUSTRY (TRAINING PROGRAMS)

The Senate amendment but not the House bill prescribes training programs designed to develop job skills appropriate for individuals with disabilities.

The House recedes to the Senate with an amendment adding the phrase "and career" after the word "job" each time it appears and the phrase "and careers" after the word "jobs" each time it appears.

14. PROJECTS WITH INDUSTRY (TRAINING IN WORK SETTINGS)

Technical difference.

The House recedes to the Senate with an amendment adding the phrase "and career advancement" after the word "employment" and after the phrase "job placement".

15. PROJECTS WITH INDUSTRY (REHABILITATION TECHNOLOGY)

The Senate amendment but not the House bill provides for the distribution of rehabilitation technology and strikes "special aids, appliances, or adapted equipment".

The House recedes.

16. PROJECTS WITH INDUSTRY (MODIFICATION OF FACILITIES)

Technical difference.

The House recedes.

17. PROJECTS WITH INDUSTRY (SUPPORT SERVICES)

Technical difference.

The House recedes to the Senate with an amendment adding the phrase "and career advancement" after the word "employment".

18. PROJECTS WITH INDUSTRY (ELIGIBILITY)

The Senate amendment but not the House bill states the requirements for eligibility to receive services under this program, requires the grant recipient to make eligibility determinations, and gives a 60 day time limit for the State unit to determine if eligibility is inappropriate.

The House recedes.

19. PROJECTS WITH INDUSTRY (GRANT AGREEMENTS GENERALLY)

The Senate amendment but not the House bill requires the Commissioner to enter into agreements with the grant recipients.

The House recedes.

20. PROJECTS WITH INDUSTRY (GRANT AGREEMENT REQUIREMENTS)

The Senate amendment but not the House bill requires the agreement to include a description to annually conduct a review and evaluation of the project in accordance with the standards developed by the Commissioner.

The House recedes.

21. PROJECTS WITH INDUSTRY DATA (NUMBER SERVED)

Technical difference.

The House recedes.

22. PROJECTS WITH INDUSTRY DATA (SERVICES PROVIDED)

Technical difference.

The House recedes.

23. PROJECTS WITH INDUSTRY DATA (PERCENTAGE OF RESOURCES)

Technical difference.

The House recedes.

24. PROJECTS WITH INDUSTRY DATA (OUTCOMES)

Technical difference.

The House recedes.

25. PROJECTS WITH INDUSTRY DATA (CAPACITY BUILDING)

The Senate amendment but not the House bill adds business and industry to the list of organizations for capacity building activities.

The House recedes.

26. PROJECTS WITH INDUSTRY DATA (COMPARISON WITH PRIOR YEARS)

Technical difference.

The House recedes.

27. PROJECTS WITH INDUSTRY DATA (PLACEMENTS TERMINATED)

The Senate amendment but not the House bill requires the review and evaluation to collect data on the number of project participants terminated from project placements and the duration of such placement.

The House recedes.

28. PROJECTS WITH INDUSTRY (TECHNICAL ASSISTANCE TO EMPLOYERS)

The Senate amendment but not the House bill allows the grant recipient the authority to provide technical assistance to assist employers in hiring individuals with disabilities, improve relationships between grant recipients and employers or organized labor, or assist employers in understanding the ADA as it relates to employment. See note 49.

The House recedes.

29. PROJECTS WITH INDUSTRY ASSURANCES (MINIMUM WAGE)

Technical difference.
The House recedes.

30. PROJECTS WITH INDUSTRY ASSURANCES (TERMINATIONS)

The Senate amendment but not the House bill strikes section 621(b)(2).
The House recedes.

31. PROJECTS WITH INDUSTRY ASSURANCES (BENEFITS)

Technical difference.
The House recedes.

32. PROJECTS WITH INDUSTRY ASSURANCES (BENEFITS)

The Senate amendment but not the House bill requires that terms and benefits afforded to an individual with a disability be equal to those afforded to similarly situated coworkers of the individual.
The House recedes.

33. PROJECTS WITH INDUSTRY ASSURANCES (SEGREGATION)

Technical difference.
The House recedes.

34. PROJECTS WITH INDUSTRY (ANNUAL EVALUATION REPORT)

The Senate amendment but not the House bill requires that an annual evaluation report be submitted to the Commissioner.
The House recedes.

35. PROJECTS WITH INDUSTRY (EVALUATION STANDARDS AND INDICATORS)

Both the House bill and the Senate amendment strike 621(d)(1) and insert changes. The House bill requires each recipient to review and evaluate its project in accordance with the standards and indicators developed by the Commissioner and requires the Commissioner to revise the standards as necessary. The Senate amendment requires the Commissioner to develop standards for evaluation and requires the Commissioner to review and revise the evaluation standards as necessary.
The House recedes.

36. PROJECTS WITH INDUSTRY (REVISION OF STANDARDS)

The House bill requires that if the standards and indicators are revised, the Commissioner shall obtain and consider recommendations for such modifications from State Vocational Rehabilitation agencies, current recipients of agreements, individuals assisted by such recipients, professional organizations representing industry, organizations representing individuals with a disability and labor organizations. The Senate amendment requires that in revising the standards and evaluation, the Commissioner shall obtain and consider recommendations for such standards from the same organizations listed in the House bill with the addition of former grant recipients, professional organizations representing business and industry, individuals served by grant recipients, and organizations representing community rehabilitation program providers.
The House recedes.

37. PROJECTS WITH INDUSTRY (GRANT RENEWAL)

The Senate amendment but not the House bill allows renewal of a grant and requires the grant recipient to submit an application to the Commissioner in order to be eligible to receive a grant.
The House recedes.

38. PROJECTS WITH INDUSTRY (PROJECT DISTRIBUTION)

The Senate amendment but not the House bill requires the Commissioner, to the extent practicable, to assure an equitable distribution of payments among the States and new projects shall be awarded that will serve individuals with disabilities that are not currently served or are underserved by project.
The House recedes.

39. PROJECTS WITH INDUSTRY (ANNUAL REPORT REVIEW)

The Senate amendment but not the House bill requires the Commissioner to review each annual evaluation report and using the indicators determine whether the grant should be terminated, modified, or renewed.
The Senate recedes.

40. PROJECTS WITH INDUSTRY (CONTINUANCE OF GRANTS)

The House bill but not the Senate amendment requires the Commissioner to use program evaluation standards to assess project performance in order to award continuance grants in the 3rd, 4th, and 5th years and requires an equitable distribution among States to the extent practicable. The House bill requires that the grantee be in compliance with the evaluation standards under section 621(d)(1) and that each fiscal year the Commissioner shall include an analysis of grantees who have complied with the evaluation standards in the annual report to Congress.
The Senate recedes.

41. PROJECTS WITH INDUSTRY (REVIEW PROCESS)

The Senate amendment but not the House bill requires that indicators of what constitutes minimum compliance consistent with the evaluation standards be published in the Federal Register; requires each grant recipient to report to the Commissioner the extent to which they are in compliance with the evaluation standards; requires the Commissioner annually to conduct on-site reviews of at least 15 percent of the grant recipients selected at random; requires the Commissioner to use the indicators in determining compliance with the evaluation standards; outlines who is on the team to conduct the review and states conflict of interest language; requires the Commissioner in the annual report to Congress to analyze the extent to which the grant recipient is in compliance with the evaluation standards, allows the Commissioner to identify the grant recipients in the analysis, and requires the Commissioner to report the results of the on-site compliance reviews; authorizes the Commissioner to provide technical assistance to projects for the improvement or development of relationships with private industry or labor or the improvement of relationships with State Vocational Rehabilitation agencies and for planning the development of new projects.
The House recedes.

42. PROJECTS WITH INDUSTRY (DEFINITIONS)

The House bill strikes section 621(h). The Senate amendment amends section 621(h) to define the terms "agreement", "project", "grant recipient" and "workers with disabilities".
The House recedes to the Senate with an amendment striking definition "(4)" pertaining to "workers with disabilities".

43. JOB UPGRADE DEMONSTRATION PROJECTS

The House bill but not the Senate amendment authorizes the Commissioner to make grants to partnerships or consortia that include private business concerns or industries to develop model demonstration projects for workers with a disability who need new or upgraded skills to adapt to emerging technologies, work methods, and markets to ensure that such individuals possess the knowledge and skills necessary to compete in the work place. Outlines the length of the award and what information must be included in an application to receive an award.
The Senate recedes to the House with amendments placing this authority in title VIII and adding the phrase "and career advancement" after the word "employment" in section 621(i)(2) of the House bill.

44. BUSINESS OPPORTUNITIES (PLACEMENT)

The House bill but not the Senate bill creates Part D, Business Opportunities for Individuals with a Disability by redesignating section 622 as section 641.
The Senate recedes.

45. BUSINESS OPPORTUNITIES (HEADING)

Technical difference.
The Senate recedes.

46. BUSINESS OPPORTUNITIES (TABLE OF CONTENTS)

The House bill but not the Senate amendment updates the table of contents to reflect the change made in note 44.
The Senate recedes.

47. PROJECTS WITH INDUSTRY (AUTHORIZATION OF APPROPRIATIONS)

The House bill authorizes $21,042,000 for fiscal year 1993 and such sums for fiscal years 1994 through 1997 and the Senate amendment authorizes such sums for fiscal years 1993 through 1997.
The House recedes.

48. BUSINESS OPPORTUNITIES (AUTHORIZATION OF APPROPRIATIONS)

The House bill but not the Senate amendment authorizes such sums for fiscal years 1993 through 1997 to carry out Part D, Business Opportunities for Individuals with a Disability.
The Senate recedes.

49. TECHNICAL ASSISTANCE TO EMPLOYERS

The House bill but not the Senate amendment authorizes the Commissioner to enter into agreements with organizations representing individual employers, rehabilitation service providers, labor unions, and business or industry to provide technical assistance to assist employers in hiring individuals with a disability, improve or develop relationships between current or prospective projects with industry and employers and/or labor or assist employers in understanding and meeting the requirements of the Americans with Disabilities Act as it relates to employment. See note 28.
The House recedes.

50. TECHNICAL ASSISTANCE TO EMPLOYERS (TABLE OF CONTENTS)

The House bill but not the Senate amendment updates the table of contents to reflect changes made by note 49.
The House recedes.

51. SUPPORTED EMPLOYMENT (GENERAL)

Technical difference.
The House recedes.

52. SUPPORTED EMPLOYMENT (PURPOSE)

Both the House bill and the Senate amendment make amendments to the purpose. The House bill strikes "traditionally time-limited post-employment services leading to supported employment for individuals with severe disabilities" and inserts "for the provision of services leading to supported employment for individuals with a severe disability in the most integrated settings." The Senate amendment rewrites the purpose emphasizing that entities provide supported employment services for those individuals with the most severe disabilities who require supported employment services to enter or retain competitive.

The House recedes.

53. SUPPORTED EMPLOYMENT (FORMULA)

The Senate amendment but not the House bill has a formula that no State can receive less than $250,000 or one third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made whichever is greater and for a fiscal year in which the amounts appropriated under this part exceed by not less than $1 million the appropriations made to carry out this part in fiscal year 1992, no State shall receive less than $300,000 or one third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

The House recedes to the Senate with an amendment clarifying the formula.

54. SUPPORTED EMPLOYMENT (STATE DEFINITION)

The Senate amendment but not the House bill defines what is not a State which includes Guam, American Samoa, the Virgin Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands and sets a minimum allotment for these entities not less than one-eighth of 1 percent except for Palau which shall be allotted not less than one eighth of 1 percent for the fiscal year, pending ratification of the Compact of Free Association. The House bill only makes a technical change from "the jurisdictions" to "each jurisdiction".

The Senate recedes.

55. SUPPORTED EMPLOYMENT (PLANNING GRANTS)

The House bill but not the Senate amendment retains current law allowing grants under this part to be used for planning activities for not more than 18 months and not to exceed $250,000.

The House recedes.

56. SUPPORTED EMPLOYMENT (FUNDS FOR EXTENDED SERVICES)

The Senate amendment but not the House bill provides that funds under this part may only be used to provide supported employment services to those individuals eligible to receive such services and that no funds provided by this part, title I or section 311(c) or 311(d) may be used to provide extended services to individuals who are eligible for services under this part or Title I.

The House recedes.

57. SUPPORTED EMPLOYMENT (ELIGIBILITY)

The Senate amendment but not the House bill prescribes the eligibility for this part to be an individual who is eligible for vocational rehabilitation services; and an individual is determined to be an individual with the most severe disabilities; and a comprehensive assessment of rehabilitation needs of the individual identifies supported employment as the appropriate rehabilitation objective for this individual.

The House recedes.

58. SUPPORTED EMPLOYMENT (STATE PLAN SUPPLEMENT)

The Senate amendment but not the House bill strikes the requirement that the State plan supplement for this part be for a three year period. Both the House bill and the Senate amendment strike language regarding traditionally time-limited postemployment services leading to supported employment. The House bill inserts "services authorized under this part" and the Senate amendment rewrites to emphasize supported employment services authorized under this Act to individuals who are eligible.

The House recedes.

59. SUPPORTED EMPLOYMENT (STATEWIDE ASSESSMENT)

The Senate amendment but not the House bill requires the plan to summarize the results of the comprehensive, statewide assessment of the rehabilitation needs of individuals with severe disabilities conducted under section 101(a)(5) of their amendment with respect to the need for supported employment services.

The House recedes to the Senate with an amendment inserting in (b)(2) the phrase "and career" after the phrase "assessment of the rehabilitation".

60. SUPPORTED EMPLOYMENT (DESCRIPTION OF SERVICES)

Technical difference.

The House recedes.

61. SUPPORTED EMPLOYMENT (COOPERATIVE AGREEMENTS)

The House bill requires that each designated State unit enter into cooperative agreements which demonstrate the capacity of the State to ensure collaboration by and funding from other State agencies and private nonprofit organizations to assist in the provision of supported employment services. The Senate amendment requires the supplement plan to demonstrate evidence of efforts to identify and make arrangements with other State agencies and other appropriate entities to assist in the provision of supported employment services.

The Senate recedes to the House and the House recedes to the Senate with an amendment inserting after the phrase "make arrangements" the phrase "(including entering into cooperative agreements)".

62. SUPPORTED EMPLOYMENT (IDENTIFICATION OF EXTENDED SERVICES)

The Senate amendment but not the House bill requires the State supplement plan to demonstrate evidence of efforts to identify and make arrangements with other public or nonprofit agencies within the State, employers, natural supports, and other entities to provide extended services.

The House recedes.

63. SUPPORTED EMPLOYMENT (TITLE I FUNDED SERVICES)

The Senate amendment but not the House bill requires assurances that funds under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive such services; that the comprehensive assessments conducted under section 102(b)(1)(A) of the Senate amendment will include consideration of supported employment as an appropriate rehabilitation objective; that the IWRP will be developed and updated using funds under Title I to specify the supported employment services to be provided, specify the extended services needed, and identify the source of extended employment services or if that cannot be done at the time of development of the IWRP, a statement describing that there is a reasonable expectation that such sources will become available; the State will use funds under this part to supplement, not supplant funds provided under Title I in providing supported employment services; job skills training will be provided on-site.

The House recedes.

63A. SUPPORTED EMPLOYMENT (SERVICES)

The House bill but not the Senate amendment strikes "traditionally time-limited post-employment services leading to supported employment" and inserts "services authorized under this part." The House recedes.

64. SUPPORTED EMPLOYMENT (COORDINATION OF SERVICES)

The House bill makes a technical change in the reference to the Individuals with Disabilities Education Act. The Senate amendment requires that services provided under an IWRP will be coordinated with services provided by other individualized plans established under other State and Federal laws.

The House recedes.

65. SUPPORTED EMPLOYMENT (ADMINISTRATIVE COSTS)

Technical difference.

The House recedes.

66. SUPPORTED EMPLOYMENT (OTHER INFORMATION)

Technical difference.

The House recedes.

67. SUPPORTED EMPLOYMENT (CAREER ADVANCEMENT)

The House bill but not the Senate amendment strikes "rehabilitation potential" and inserts "rehabilitation and career needs", adds "advance" in employment and strikes "rehabilitation potential" and inserts "rehabilitation needs".

The House recedes.

68. SUPPORTED EMPLOYMENT (ON-GOING SUPPORT SERVICES)

The House bill but not the Senate amendment limits on-going support services to a period of time prescribed by the Commissioner; authorizes extended on-going support services to be provided by other State agencies and private organizations or any other available source but stipulates that nothing in this section shall preclude an individual from again receiving post-employment services after the receipt of extended supported employment services.

The House recedes.

69. SUPPORTED EMPLOYMENT (DATA COLLECTION)

Technical difference.

The House recedes.

70. SUPPORTED EMPLOYMENT (SAVINGS PROVISION)

The House bill but not the Senate amendment strikes "Act" and inserts "part" and strikes "time-limited post-employment services leading to supported employment" and inserts "providing supported employment services." The Senate amendment rewrites this provision emphasizing that nothing shall prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

The House recedes.

71. SUPPORTED EMPLOYMENT (POST-EMPLOYMENT SERVICES)

The Senate amendment but not the House bill provides that nothing in this part shall prohibit a State from providing discrete post-employment services in accordance with the State plan under section 101 using funds through a State allotment under section 110 to an individual who is eligible under this part.

The House recedes.

72. SUPPORTED EMPLOYMENT (AUTHORIZATION OF APPROPRIATIONS)

The House bill authorizes $32,059,000 for fiscal year 1993 and such sums for fiscal years 1994 through 1997. The Senate amendment authorizes such sums for fiscal years 1993 through 1997.

The House recedes.

73. SUPPORTED EMPLOYMENT (TABLE OF CONTENTS)

The Senate amendment but not the House bill makes changes in the table of contents for Part C, Supported Employment.

The House recedes.

COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

1. TITLE

The House bill retains the current title for the part: "Comprehensive Services for Independent Living." The Senate amendment changes the title to: "Centers for Independent Living and Independent Living Services."

The House recedes to the Senate with an amendment changing the title of title VII to "Independent Living Services and Centers for Independent Living".

2. PURPOSE

(a) With minor drafting differences, both the House bill and the Senate amendment revise the purpose section for title VII.

The House recedes.

(b) The House bill and the Senate amendment reverse the order of the first two activities.

The Senate recedes.

(c) The House bill refers to "linkages" and includes a reference to linkages between State independent living rehabilitation service programs. The Senate amendment refers to "working relationships among" various entities.

The Senate recedes to the House with an amendment striking the words "linkages between" and inserting "working relationships".

3. DEFINITIONS

*(a) Consumer control*

With a minor drafting difference, both the House bill and the Senate amendment define "consumer control."

The House recedes.

*(b) Designated State unit*

The House bill, but not the Senate amendment, defines "designated State unit" for the purpose of title VII.

The Senate recedes.

*(c) Independent living services*

(i) Both the House bill and the Senate amendment define independent living services (definition in the Senate amendment is set out in the general definition section).

The House recedes.

(ii)The House bill defines independent living services that are required and then includes those services that are permissive. The Senate amendment uses the term "independent living core services" for those services that are required and "independent living services" for those services that are permissive.

The House recedes.

(iii) The House bill includes "training" in individual and system advocacy as a mandatory service; the Senate amendment refers to "individual and systems advocacy."

The House recedes.

(iv) The House bill, but not the Senate amendment includes a reference to "community group living."

The Senate recedes.

(v) The Senate amendment, but not the House bill, includes training and reference to life skills training under services for those with cognitive and sensory impairments.

The House recedes.

(vi) The Senate amendment includes "personal assistance services." The House amendment includes "personal assistance services, including attendant care."

The Senate recedes.

(vii) The House bill, but not the Senate amendment, includes surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services.

The Senate recedes.

(viii) The House bill, but not the Senate amendment, includes consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with a disability who have been traditionally underserved.

The Senate recedes.

(ix) The House bill, but not the Senate amendment, includes education and training necessary for living in the community and participating in community activities.

The Senate recedes.

(x) The House bill, but not the Senate amendment, includes appropriate job placement.

The House recedes.

(xi) The Senate amendment, but not the House bill, includes reference to supported living.

The House recedes.

(xii) The Senate amendment includes reference to transportation. The House bill includes reference to transportation, including referral and assistance for such transportation.

The Senate recedes.

(xiii) The Senate amendment includes "prostheses"; the House bill includes "needed prostheses".

The Senate recedes.

(xiv) The Senate amendment, but not the House bill, includes "health maintenance."

The Senate recedes.

(xv) The House bill, but not the Senate amendment, includes skills specifically designed for youths with a disability to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options.

The Senate recedes.

(xvi) The Senate amendment includes reference to "services for children". The House bill includes "services for children, including physical therapy, development of language and communications skills, and child development services."

The House recedes.

(xvii) The House bill, but not the Senate amendment, includes services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance of substantial benefit in enhancing the independence, productivity and quality of life of individuals with a disability.

The Senate recedes.

(xviii) The House bill, but not the Senate amendment, includes community awareness programs to enhance the understanding and integration of individuals with a disability.

The Senate recedes.

4. ELIGIBILITY FOR SERVICES

The House bill includes a separate section specifying who is eligible for services under this section, generally restating the definition of "an individual with a severe disability" set out in the general definitions section. The Senate amendment relies on the definition of the term "individual with a severe disability" and specifies eligibility as subsection (e) of the State plan. The House amendment includes a comparable subsection in the State plan.

The Senate recedes to the House with an amendment striking the phrase "individual with a severe disability" and inserting "services may be provided under this chapter to any individual with a severe disability, as defined in section 7(15)(B)."

5. STATE PLAN

*(a) Requirement to submit plan*

The House bill entitles the subsection "IN GENERAL." The Senate amendment uses the title "ELIGIBILITY."

Senate recedes.

*(b) Joint development and submission*

(i) The House bill entitles this subsection "JOINT DEVELOPMENT". The Senate amendment entitles this subsection "SUBMISSION."

Senate recedes.

(ii) The House bill refers to "Jointly developed and signed." The Senate amendment refers to "jointly signed."

The Senate recedes.

*(c) Periodic review and revision*

(i) The House bill entitles this subsection "PERIODIC REVIEW AND REVISION." The Senate amendment entitles this subsection "REVIEW AND REVISION."

The Senate recedes.

(ii) The House bill and the Senate amendment reverse the order regarding the needs in the State.

The Senate recedes.

(iii) The House bill uses the phrase "linkages"; the Senate amendment uses the phrase "working relationships."

The House recedes.

*(d) Date of submission, statewide council, designated State unit, objectives*

With slightly different wording, both the House bill and the Senate amendment include the above topics in the State plan.

The House recedes.

*(e) Independent living services, eligibility*

With slightly different wording, both the House bill and the Senate amendment provide for an independent living plan for services under title VII except in certain cases.

(i) The Senate amendment requires that the individual sign a waiver stating that the plan is unnecessary; the House bill allows for the determination by the individual that the plan is unnecessary.

The House recedes.

(ii) The House bill provides for the plan to be agreed upon between the individual and the State and/or services providers; the Senate amendment provides for the agreement with an appropriate staff member of the services provider.

The House recedes.

*(f) Scope of services*

With slightly different language, both the House bill and the Senate amendment provide for the scope of services. The House bill adds that any arrangements made through grant or contract for providing services must be described in the State plan.

The House recedes to the Senate with an amendment adding at the end of (f): "If the State makes arrangements by grant or contract, for providing such services, such arrangements shall be described in the plan."

*(g) Statewide network, award of grants to centers*

With slightly different wording, the House bill and the Senate amendment include the above topics in the State plan.

The House recedes.

*(h) Cooperation and coordination*

(i) With regard to the coordination with other entities, the House bill includes the independent living rehabilitation service programs.

The Senate recedes.

(ii) The Senate amendment refers to "working relationships," while the House bill references "linkages."

The House recedes.

(iii) In terms of coordination between independent living services and centers, the House bill adds that this is in order to avoid unnecessary duplication with other Federal, State, and local programs.

The Senate recedes.

*(i) Outreach*

The House bill, but not the Senate amendment includes "Minorities and urban and rural areas" as illustrations of unserved and underserved populations.

The Senate recedes.

*(j) Assurances*

With slightly different wording, both the House bill and the Senate amendment specify assurances that must be made.

(i) The Senate amendment, but not the House bill, specifies that recipients of assistance under this title shall take affirmative action to employ qualified individuals with disabilities.

The House recedes.

(ii) The House bill, but not the Senate amendment, specifies that the entity must submit such reports with respect to such records as the Commissioner determines to be appropriate.

The Senate recedes.

(iii) The Senate amendment includes as an assurance that the applicant must hold public hearings. The House bill includes this provision as a separate provision in the State plan.

The House recedes.

*(k) Administrative costs*

The Senate amendment, but not the House bill, requires an assurance that no more than 5 percent of the funds available under this title will be used for administrative costs.

The Senate recedes.

6. INDEPENDENT LIVING COUNCIL

*(a) Establishment*

With slightly different wording, the House bill and the Senate amendment provide for the establishment of Statewide Independent Living Councils. The House bill stipulates that funds under this title shall pay for the Council. See note 8(c) for Senate provision.

The House recedes.

*(b) Appointments*

(i) With slightly different wording, the House bill and the Senate amendment provide for the appointment of members within 90 days.

The House recedes.

(ii) The House bill specifies that the members will be appointed from organizations representing a broad range of individuals with disabilities; the Senate amendment specifies that the members will be appointed after soliciting recommendations from these organizations.

The House recedes.

*(c) Composition*

(i) With different wording and location in the bills, both the House bill and the Senate amendment specify that the Council must provide for statewide representation, and the members must represent a broad range of individuals with disabilities and be knowledgeable about centers and services.

The House recedes.

(ii) With slightly different wording, the House bill and the Senate amendment specify the categories of persons that must and may be included.

The House recedes.

(iii) With slightly different wording, the House bill and the Senate amendment specify that the majority of the Council must be individuals with disabilities.

The House recedes.

*(d) Chairperson*

With slightly different wording, both the House bill and the Senate amendment specify policies governing the appointment of the chairperson.

The House recedes.

*(e) Terms of appointment*

The Senate amendment, but not the House bill, specifies that council members may only serve two consecutive full terms.

The House recedes.

*(f) Vacancies*

The Senate amendment, but not the House bill, provides that a vacancy on the council shall not affect the power of the remaining members to perform the duties of the Council.

The House recedes.

*(g) Functions/duties*

The House bill specifies that the Council shall "jointly" develop and submit the State plan (in conjunction with the designated State unit). The Senate amendment does not include the word "jointly" at the beginning of the sentence.

The Senate recedes.

*(h) Hearings and forums*

The Senate amendment specifies that the Council is authorized to hold hearings and forums. The House bill specifies under the subsection on "use of funds" that funds may be used for such activities.

The House recedes.

*(i) Budget/resource plan*

The House bill provides for the development of a budget for the Council and specifies that the Council may hire staff and obtain services of professional, technical, and clerical personnel. The Senate amendment provides for the development of a resource plan that will use, to the maximum extent possible, existing resources. The Senate amendment provides that the Council shall, consistent with State law, supervise and evaluate staff and other personnel.

The House recedes. The Conferees expect that the Council will be fully independent from the State vocational rehabilitation agency even while relying, to the maximum extent possible, on existing resources from the State vocational rehabilitation agency to provide staff and other personnel. The Conferees expect that staff provided by the State vocational rehabilitation agency, when assigned to work for the Council, will work solely on behalf of the Council and will not be assigned duties that create a conflict of interest. The Conferees expect that administrative arrangements made in the State will be consistent with this expectation so that each Council can operate independently.

7. RESPONSIBILITIES OF THE COMMISSIONER

The Senate amendment, but not the House bill, specifies the responsibilities of the Commissioner regarding approval of State plans, indicators, on-site compliance reviews, and reports.

The House recedes.

8. INDEPENDENT LIVING SERVICES PROGRAM

*(a) Allotments*

(i) With slightly different wording, the House bill and the Senate amendment specifies the policies governing allotments.

The House recedes.

(ii) The House bill sets the minimum allotment at $225,000; the Senate amendment sets the minimum at $275,000.

The House recedes.

(iii) The House bill, provides for the increase in the minimum amount of allotments based on the Consumer Price Index. The Senate amendment provides for an adjustment in the minimum allotment when the appropriations exceed the change in the CPR.

The Senate recedes.

(iv) The House bill and the Senate amendment use different terminology to describe the territories.

The Senate recedes.

*(b) Payments to the States*

With minor drafting and language differences, both the House bill and the Senate amendment provide for payments to the States and the Federal share. The Senate amendment, but not the House bill, includes cash and a description of in-kind in regard to the State match.

The House recedes.

*(c) Authorized uses of grants*

(i) With minor drafting and language differences, both the House bill and the Senate amendment specify authorized uses of funds. The House bill uses the term "may use"; the Senate amendment uses the term "shall use."

The Senate recedes.

(ii) The Senate amendment includes support of the Council in this section, the House bill includes it in the section establishing the Council.

The House recedes.

(iii) The House bill authorizes funds "to provide independent living services as defined by this title to individuals with a severe disability." The Senate amendment authorizes such funds "to provide independent living services."

The Senate recedes.

(iv) The House bill, but not the Senate amendment, specifies that minorities and urban and rural populations are included in unserved and cpu populations.

The Senate recedes.

*(d) Authorization of appropriations*

The House bill authorizes $14,654,000 for part B for 1993 and "such sums" thereafter. The Senate amendment authorizes "such sums" for the duration of the reauthorization.

The House recedes.

9. CENTERS FOR INDEPENDENT LIVING

*(a) Definitions*

The House bill, referring to an "eligible organization" and the Senate amendment, referring to an "eligible agency", both include the same definition.

The House recedes.

*(b) Program authorization*

The Senate amendment, but not the House bill, provides that from the funds appropriated, the Commissioner for fiscal year 1994 and thereafter shall allot such sums as may be necessary in accordance with the policies described below.

The House recedes.

*(c) Allotments*

(i) With slightly different wording, the House bill and the Senate amendment specify policies governing allotments.

The House recedes.

(ii) The House bill specifies that a "State shall be entitled to an allotment." The Senate amendment specifies that the "Commissioner shall make an allotment."

The House recedes.

(iii) The House bill provides for a minimum allotment of $275,000 while the Senate amendment provides a minimum of $500,000.

The House recedes to the Senate with an amendment striking "$500,000" and inserting $400,000 when the appropriation is $4 million or greater than the fiscal year 1992 appropriation for part B of title VII in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992 and $450,000 when the appropriation is $8 million or greater than the fiscal year 1992 appropriation under such part.

(iv) The House bill provides for maintenance of the fiscal year 1993 level while the Senate bill provides for maintenance of the 1992 level.

The House recedes.

(v) The House bill and the Senate amendment use different terminology to describe the territories.

The Senate recedes.

(vi) The Senate amendment, but not the House bill, provides for an inflation adjustment for minimum allotment States if the funds appropriated exceed the change in the Consumer Price Index.

The House recedes to the Senate with an amendment clarifying that the adjustment for inflation may begin with respect to making allotments for fiscal year 1994 and subsequent fiscal years.

(vii) The House bill provides for a proportional reduction in order to prevent a State receiving less than $200,000 while the Senate makes the same provision where a State would receive less than $500,000.

The House recedes to the Senate with an amendment striking "500,000" and inserting a reference to the minimums in note (9)(c)(iii).

(viii) Both the House bill and the Senate amendment provide for a reservation of funds for training and technical assistance. The Senate amendment provides for the reservation of the amount of the excess over the prior year's appropriation or $550,000 or 2% whichever is greater while the House bill provides for a 2% set aside.

The House recedes to the Senate with an amendment specifying that the amount must be between 1.8 percent and 2 percent.

(ix) The House bill provides for the review of grant applications by review panels "who have experience and knowledge in independent living programs." The Senate amendment specifies that such individuals must "have experience in the operation of centers for independent living."

The House recedes.

(x) With the minor difference that the House references this part and the Senate references this title, both the House bill and the Senate amendment prohibit the combining of funds.

The House recedes.

*(d) Standards and assurances for centers*

(i) The House bill, but not the Senate amendment, specifies that individuals with all different types of disabilities includes those who are unserved or cpu.

The Senate recedes.

(ii) With respect to goals, the House bill uses the term "facilitate" and the Senate amendment uses the term "assist".

The Senate recedes.

(iii) The Senate amendment specifies that centers must provide independent living core services and may provide other services; the House bill specifies that centers must provide independent living services.

The House recedes.

(iv) The Senate amendment, but not the House bill, provides that the centers must conduct resource development activities to obtain funding from sources other than title VII.

The House recedes.

(v) The House bill, but not the Senate amendment, specifies that with respect to affirmative action, the applicants for funds must comply with section 504 of this Act as well as section 503.

The House recedes.

(vi) The House bill, but not the Senate amendment, specifies that outreach to unserved and cpu populations should especially include those who are minorities and urban and rural populations.

The Senate recedes.

(vii) The House bill, but not the Senate amendment, specifies that training of unserved and cpu should include minorities and urban and rural populations.

The Senate recedes to the House with a technical amendment fixing the cross reference in assurance (12). The reference should be to (8), not (7).

(viii) The House bill specifies that the individual may determine that he or she does not need an independent living plan; the Senate amendment requires that the individual waive the plan in writing.

The House recedes.

(ix) The House bill, but not the Senate amendment, specifies that no funds may be allotted unless the Center is in compliance with the standards and assurances.

The Senate recedes.

*(e) Grants to centers for independent living in States in which Federal funding exceeds State funding*

(i) With different language, both the House bill and the Senate amendment specify that the Commissioner shall award grants to centers where the Federal funds for centers exceeds the State funds for centers.

The House recedes.

(ii) With two minor differences, both the House bill and the Senate amendment specify who is an eligible entity, existing eligible entities, new centers for independent living, and the order of priorities. The differences are that the House refers to eligible organizations and the Senate refers to eligible agencies and uses cross references.

The House recedes.

(iii) The Senate amendment, but not the House bill, specifies that priority shall be given to applications proposing to serve unserved or cpu areas of the State identified in the State plan.

The House recedes.

(iv) The Senate amendment, but not the House bill, specifies that centers receiving funds under part A of current law (or part B under the amendments) will be eligible to receive funds as a new center.

The House recedes.

(v) Both the House bill and the Senate amendment require the Commissioner to review the centers with the difference that the House bill requires the review "annually" and the Senate amendment requires the review "periodically".

The House recedes.

(vi) With minor drafting differences, both the House bill and the Senate amendment provide for termination of funds if the center fails to comply with the standards and assurances.

The House recedes.

*(f) Grants to centers for independent living in States in which State funding equals or exceeds Federal funding*

(i) Although worded differently, both the House bill and the Senate amendment provide that the director of the State unit may award grants to the centers in States where the State funding for centers equals or exceeds the Federal funds for centers. The Senate amendment authorizes the Commissioner to establish, by regulation, the proper fiscal year.

The House recedes to the Senate with an amendment to section 723(a)(1)(A)(i), as added by the Senate amendment, inserting after the section reference the following: "Beginning on October 1, 1993,".

(ii) Although worded differently, both the House bill and the Senate amendment provide for how determinations of who will award grants in subsequent years will be made in cases where the State does not continue to fund the centers at a level greater than the Federal funding.

The House recedes.

(iii) With drafting differences, both the House bill and the Senate amendment provide the procedure for the State to become the grantor of funds for centers and for the Commissioner to award the grants if the State does not apply to do so.

The House recedes.

(iv) With two minor differences, both the House bill and the Senate amendment specify who is an eligible entity, existing eligible entities, new centers for independent living, and the order of priorities. The differences are that the House refers to "eligible organizations" and the Senate refers to "eligible agencies" and uses cross references.

The House recedes.

(v) The Senate amendment, but not the House bill, specifies that centers receiving funds under part A of current law (or part B under the amendments) will be eligible to receive funds as a new center.

The House recedes.

(vi) Both the House bill and the Senate amendment require the director to review the centers with the difference that the House bill requires the review "annually" and the Senate amendment requires the review "periodically."

The House recedes.

(vii) The Senate amendment provides that funds will be terminated on the date of a final determination in cases of noncompliance unless the center submits a plan for compliance within 90 days and the plan is approved. The House bill provides that funds will be terminated within 90 days unless the center sooner complies with the standards and assurances.

The House recedes.

(viii) The House bill, but not the Senate amendment, specifies that a copy of the onsite compliance review shall be provided to the Commissioner. The Senate amendment uses the term "employee of a State agency." The House bill uses the term "employee of the State Vocational Rehabilitation Agency."

The Senate recedes with an amendment specifying an employee of the designated State agency.

*(g) Centers operated by State agencies*

The Senate amendment, but not the House bill, provides for certain centers operated by State agencies to continue to be eligible for funding under specified circumstances.

The House recedes.

*(h) Authorization of appropriations*

The House bill authorizes $29,928,000 for fiscal year 1993 and such sums thereafter for this section. The Senate amendment provides such sums for fiscal years 1993 through 1997.

The House recedes.

*(i) Transition rules for fiscal year 1993*

The House bill and the Senate amendment provide for transition to the new standards somewhat differently. These differences include: The House bill provides that centers must either comply with the standards or submit a plan for meeting the requirements by October 1, 1993. The Senate has a similar provision but only for those centers receiving funds in fiscal year 1992. With different language, both the House bill and the Senate amendment provide that centers receiving funds in fiscal year 1992 will be given priority. The Senate amendment, but not the House bill, specifies that agencies that did not receive funds in fiscal year 1992 must meet the standards and assurances.

The House recedes.

*(j) Effective date*

The Senate amendment, but not the House bill, specifies the effective date for this part.

The Senate recedes to the House and the House recedes to the Senate with an amendment authorizing the Commissioner to delay the effective date of the amendments to section 703 of the Act (pertaining to the State plan) made by the Rehabilitation Act Amendments of 1992 to no later than October 1, 1993.

10. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

*(a) Placement in the act*

The House bill continues to include this program in title VII; the Senate amendment places this program in title III.

The Senate recedes.

*(b) Purpose*

The House bill provides that the Commissioner may make grants for the purpose of providing services to older blind individuals; the Senate amendment provides that the grants are to provide independent living services and related services to older individuals who are blind to adjust to blindness by becoming more able to care for individual needs.

The Senate recedes.

*(c) Definition*

Although worded somewhat differently, both the House bill and the Senate amendment provide a definition of an older individual who is blind. The House bill uses the phrase older blind individual throughout while the Senate amendment uses the phrase older individual who is blind. The House bill uses the term "gainful employment"; the Senate amendment uses the term "competitive employment".

The House recedes.

*(d) Designated State unit*

The House bill, but not the Senate amendment, provides that the grant under this section must be administered solely by the designated State unit authorized to provide vocational rehabilitation services to the adult blind.

The Senate recedes.

*(e) Competitive, formula grant*

The House bill, but not the Senate amendment, provides that if the funds for this section equal or exceed $13,000,000 then the funds will be allotted to the States by formula.

The Senate recedes to the House with an amendment striking "In the case of any fiscal year" and inserting the phrase, "Beginning with fiscal year 1994, in the case of any fiscal year".

*(f) Services authorized*

(i) The House bill requires that the States agree to expend funds only to provide independent living services to older blind individuals, to conduct activities to improve or expand the services for such individuals and to improve public understanding of such individuals. The Senate amendment requires that the State expend the funds to provide independent living skills training, information and referral services, peer counseling, and individual advocacy training.

The Senate recedes to the House with an amendment adding to subsection (d) an additional paragraph that reads: "(7) independent living services including independent living skills training, information and referral services, peer counseling, and individual advocacy training:".

(ii) With minor drafting differences, both the House bill and the Senate amendment list independent living services that may be provided. The Senate amendment, but not the House bill also includes "other independent living services" in addition to those listed.

The House recedes.

*(g) Matching funds*

The House bill, but not the Senate amendment, specifies special rules for matching.

The Senate recedes.

*(h) Grants to nonprofits*

The House bill and the Senate amendment in different places and using slightly different language, authorize States to make grants to nonprofits. The Senate amendment, but not the House bill, provides that the State may make grants to other entities to conduct activities to improve or expand services and help improve public understanding and to provide independent living and related services.

The Senate recedes.

*(i) State plan*

The House bill, but not the Senate amendment, specifies that the State must seek to incorporate in the State plan any new methods and approaches relating to independent living services for older blind individuals.

The Senate recedes.

*(j) Applications*

With slightly different language both the House bill and the Senate amendment provide general requirements for applications under this part. The Senate amendment, but not the House bill, provides for the contents of the application.

The Senate recedes to the House with an amendment adding the paragraph (e)(2) relating to the specific contents of the grant application.

*(k) State allotments*

The House bill, but not the Senate amendment, provides for the amount of the formula grant in the event that the trigger is reached.

The Senate recedes.

*(l) Authorization of appropriations*

The House bill authorizes $6,713,000 for fiscal year 1993 and such sums thereafter. The Senate amendment authorizes such sums throughout the reauthorization period.

The House recedes.

HELEN KELLER NATIONAL CENTER AND AMENDMENTS TO OTHER ACTS

1. CONGRESSIONAL FINDINGS (INCIDENCE)

Technical difference.

The House recedes.

2. CONGRESSIONAL FINDINGS (INVESTMENT)

Technical difference.

The House recedes.

3. CONTINUED OPERATION OF CENTER (GENERAL)

The Senate amendment, but not the House bill, strikes the repeal of an obsolete provision and renumbers the subsequent provisions.

The House recedes.

4. CONTINUED OPERATION OF CENTER (PRIOR OPERATION)

Technical difference.

The House recedes.

5. CONTINUED OPERATION OF CENTER (CROSS-REFERENCE)

The Senate amendment, but not the House bill, amends a subsection reference, occasioned by the deletion in note 3.

The House recedes.

6. PURPOSES OF CENTER (NATIONAL REGISTRY)

The Senate amendment, but not the House bill, adds the requirement to maintain a national registry on information and data.

The Senate recedes.

7. ENDOWMENT FUND (PLACEMENT)

Technical difference, since the House adds the endowment provision in the middle of the Act and the Senate adds the provision at its end.

The House recedes.

8. ENDOWMENT FUND (ESTABLISHMENT)

Technical difference.

The House recedes.

9. ENDOWMENT FUND (FEDERAL PAYMENTS)

Technical difference involving citation of subsections.

The House recedes.

10. ENDOWMENT FUND (LAW GOVERNING)

The House bill uses the law of the State of New York.

The Senate amendment uses the law of the District of Columbia.

The Senate recedes.

11. ENDOWMENT FUND (CONFLICT OF INTEREST)

The Senate amendment, but not the House bill, includes a provision on conflict of interest.

The House recedes.

12. ENDOWMENT FUND (ENCUMBRANCE OF CORPUS)

The Senate amendment, but not the House bill, includes a provision prohibiting the encumbrance of the corpus.

The House recedes.

13. ENDOWMENT FUND (CORPUS EXPENDITURE)

The Senate amendment, but not the House bill, specifically authorizes the use of all monies after the expiration of the 20 year period. Also, some technical drafting differences.

The House recedes.

14. ENDOWMENT FUND (INCOME)

The House bill uses the term "accumulated endowment fund income".

The Senate amendment uses the term "aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure."

The House recedes.

15. ENDOWMENT FUND (WAIVER OF LIMITATIONS)

Technical difference.

The House recedes.

16. ENDOWMENT FUND (WAIVER CIRCUMSTANCES)

The House bill allows the Secretary to waive the 50 percent limitation on withdrawals where "* * * the Secretary determines * * *" same is a "necessary response to exceptional or uncontrollable circumstances * * *".

The Senate amendment allows the Secretary to waive the 50 percent limitation on withdrawals where "* * * the Center demonstrates to the Secretary's satisfaction * * *" that a specific set of circumstances has occurred or been met.

The House recedes.

17. ENDOWMENT FUND (REPORTING REQUIREMENTS)

The Senate amendment, but not the House bill, contains specific requirements on reporting and financial records.

The House recedes.

18. ENDOWMENT FUND (CORPUS DEFINED)

Technical difference.

The House recedes.

19. ENDOWMENT FUND (AUTHORIZATION OF APPROPRIATIONS)

The Senate amendment, but not the House bill, contains a separate authorization of appropriations.

The House recedes.

20. HELEN KELLER NATIONAL CENTER (AUTHORIZATION OF APPROPRIATIONS)

The House recedes.

21. DEFINITIONS (GENERAL)

The Senate amendment, but not the House bill, strikes the reference to the Rehabilitation Act.

The House recedes.

22. DEFINITIONS (VISUAL CRITERIA)

Technical difference—the House and Senate use different terms to define the same physical condition.

The House recedes with a technical amendment striking the phrase "or, if there is a field defect, central acuity of 20/200" and inserting "or a field defect".

23. DEFINITIONS (HEARING CRITERIA)

Technical difference.

The House recedes.

24. DEFINITIONS (FUNCTIONAL CRITERIA)

The Senate amendment, but not the House bill, adds the caveat that the combination of loss of vision and hearing are causing extreme difficulty in attaining independence, achieving psychosocial adjustment or obtaining a vocation.

The House recedes.

25. DEFINITIONS (PERFORMANCE ASSESSMENT)

Technical difference in referring to those who cannot be diagnosed accurately due to cognitive or behavioral conditions, and the Senate includes a requirement for functional and performance assessment in making that determination.

The House recedes.

26. DEFINITIONS (SECRETARIAL DEFINITION)

Technical difference in describing the Secretary's authority to define the term further.

The House recedes.

27. CONSTRUCTION OF ACT; EFFECT ON AGREEMENTS

Technical difference.

The House recedes.

28. INDIVIDUALS WHO ARE DEAF-BLIND

The Senate amendment, but not the House bill, makes a number of technical changes to the Act to conform terms.

The House recedes.

29. BUDGET ENFORCEMENT ACT

The House bill, but not the Senate amendment, adds a Budget Enforcement Act compliance provision providing a cap for programs in the Budget Enforcement Act account for Rehabilitation Services and Disability Research.

The House recedes.

30. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

The Senate amendment, but not the House bill, amends terms in the Wagner-O'Day Act and the Small Business Act.

The House recedes.

31. INDIVIDUALS WITH DISABILITIES EDUCATION ACT (TRAINING)

The Senate amendment, but not the House bill, amends the Individuals with Disabilities Education Act to authorize the training or retraining of regular teachers involved with individuals who are deaf in meeting the communication needs of such individuals. (See note 87 under "Supplementary Service and Community Rehabilitation Programs/Training and Demonstration Projects".)

The House recedes.

32. INDIVIDUALS WITH DISABILITIES EDUCATION ACT (SERIOUS EMOTIONAL DISTURBANCE)

The Senate amendment, but not the House bill, requires the Secretary of Education to issue a public Notice of Inquiry on the definition of "serious emotional disturbance", as used in the Individuals with Disabilities Education Act and the need for, and desirability of, amendment to same. A definition to be used in the solicitation of public comment is included and other administrative caveats are included. A report to Congress is required.

The House recedes to the Senate with an amendment striking in (b)(4) the phrase "within 7 months after the end of the comment period," and inserting "within 10 months after the date of enactment of this Act,".

33. TECHNOLOGY RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT

The Senate amendment, but not the House bill, amends the Technology Related Assistance for Individuals With Disabilities Act of 1988 by including institutions of higher education as entities eligible to receive funding.

The House recedes.

34. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

The Senate amendment, but not the House bill, makes a number of amendments to the Joint Resolution authorizing an appropriation for the work of the Presidents Committee on National Employ the Physically Handicapped Week relating to terms, policy direction and authorization of appropriation.

The House recedes.

WILLIAM D. FORD,
PAT WILLIAMS,
MAJOR R. OWENS,
DONALD M. PAYNE,
JOSÉ E. SERRANO,
WM. JEFFERSON,
ED PASTOR,
BILL GOODLING,
CASS BALLENGER,
SCOTT KLUG,
RANDY "DUKE" CUNNINGHAM,
*Managers on the Part of the House.*

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
PAUL SIMON,
BROCK ADAMS,
ORRIN HATCH,
DAVE DURENBERGER,
JIM JEFFORDS,
*Managers on the Part of the Senate.*

## LEAVE OF ABSENCE

Mr. SENSENBRENNER (at the request of Mr. MICHEL), for today and until 12 noon tomorrow, on account of a death in the family.

Mr. BLACKWELL (at the request of Mr. GEPHARDT), for today, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mr. TAYLOR of North Carolina, for 5 minutes, on October 5.

Mr. HASTERT, for 60 minutes, today.

Mr. BUNNING, for 60 minutes, on October 3.

Mr. ROGERS, for 60 minutes, on October 3.

(The following Members (at the request of Mr. KOLTER) to revise and extend their remarks and include extraneous material:)

Mr. HAYES of Illinois, for 5 minutes, today.

Mr. SMITH of Florida, for 5 minutes, today.

Mrs. UNSOELD, for 5 minutes, today.

Mr. RICHARDSON, for 5 minutes each day, for today and October 3, 4, and 5.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. NATCHER, for 60 minutes each day, on October 3 and 4.

Mr. ROSE, for 60 minutes, on October 3.

Mr. TAUZIN, for 60 minutes each day, on October 3, 4, and 5.

Ms. NORTON, for 60 minutes each day, on October 3, 4, and 5.

Mr. JOHNSON of Texas, for 60 minutes today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DORNAN of California) and to include extraneous matter:)

Mr. WELDON.
Mr. GEKAS.
Mrs. MORELLA.
Mr. SPENCE.
Mr. ZIMMER.
Mr. COUGHLIN.
Mr. BEREUTER.
Mr. SOLOMON in two instances.
Mr. GALLO.
Mr. CRANE.
Mr. GINGRICH.
Mr. OXLEY.
Mr. DANNEMEYER.
Mr. BLAZ.
Mr. RIDGE.
Ms. MOLINARI in two instances.
Mr. BARTON of Texas.
Mr. BLILEY in two instances.
Mr. CAMPBELL of California.
Mr. GILMAN in two instances.
Mr. GREEN of New York in three instances.
Mr. COMBEST.
Mr. GOODLING.
Mr. BALLENGER.
Mr. DREIER of California.

(The following Members (at the request of Mr. KOLTER) and to include extraneous matter:)

Mrs. LOWEY of New York.
Mr. FASCELL in five instances.
Mr. EARLY.
Mr. LEHMAN of California.
Mr. CONDIT.
Mr. NATCHER.
Mr. ROE in two instances.
Mr. DURBIN.
Mr. HAMILTON.
Mr. HUBBARD.
Mr. NEAL of Massachusetts in two instances.
Mr. YATES.
Mr. LIPINSKI in two instances.
Mr. LANTOS in two instances.
Mr. PANETTA in two instances.
Mr. MORAN.
Ms. OAKAR.
Mr. KILDEE.
Mr. SANGMEISTER.
Mr. SKELTON.
Mr. YATRON.
Mr. GEJDENSON in two instances.
Mr. TAUZIN.
Mr. MURTHA.
Mr. KOSTMAYER.
Mrs. BYRON.
Mr. ANDREWS of Texas.
Mr. WYDEN.
Mr. SANDERS.
Mr. SOLARZ.

## SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 20. An act to provide for the establishment, testing, and evaluation of strategic planning and performance measurement in the Federal Government, and for other purposes; to the Committees on Government Operations and Rules.

S. 1664. An act to establish the Keweenaw National Historical Park, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1893. An act to adjust the boundaries of the Targhee National Forest, to authorize a land exchange involving the Kaniksu National Forest, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3100. An act to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes; to the Committee on Interior and Insular Affairs.

## ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1628. An act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes.

H.R. 3508. An act 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.

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug.

H.R. 5673. An act to amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research.

H.J. Res. 320. Joint resolution authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War.

## ADJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 52 minutes a.m.), the House adjourned until today, Saturday, October 3, 1992, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4347. A letter from the Acting Chairman, Federal Deposit Insurance Corporation, transmitting a feasibility study on authorizing insured and uninsured deposit accounts through a so-called "two-window" system, pursuant to Public Law 102-242, section 321(c) (105 Stat. 2370); to the Committee on Banking, Finance, and Urban Affairs.

4348. A letter from the Secretary of Education, transmitting a copy of Final Regulations—Assistance to States for the Education of Children with Disabilities Program and Preschool Grants Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4349. A letter from the Acting Assistant Secretary of State (Legislative Affairs), transmitting a memorandum of Justification for Presidential determination regarding the drawdown of defense articles and services for disaster relief to Pakistan, pursuant to Public Law 101-513, section 574(b) (104 Stat. 2042); to the Committee on Foreign Affairs.

4350. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

## 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. DELLUMS: Committee on the District of Columbia. H.R. 5811. A bill to create a Supreme Court for the District of Columbia, and for other purposes (Rept. 102-975). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 592. Resolution waiving points of order against the conference report to accompany the bill (S. 2532) entitled the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act," and against the consideration of such conference report (Rept. No. 102-976). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 593. Resolution providing for consideration of the bill (S. 2681) relating to native Hawaiian health care, and for other purposes (Rept. 102-977). Referred to the House Calendar.

Mr. DE LA GARZA: Committee of Conference. Conference report on H.R. 707 (Rept. 102-978). Ordered to be printed.

Mr. ROSE: Committee on House Administration. H.R. 5575. A bill to authorize certain uses of real property acquired by the Architect of the Capitol for use by the Librarian of Congress and for other purposes; with amendments (Rept. 102-979). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4363. A bill to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons; with an amendment (Rept. 102-980). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4797. A bill to direct the U.S. Sentencing Commission to make sentencing guidelines for Federal criminal cases that provide sentencing enhancements for hate crimes (Rept. 102-981). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5304. A bill to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought, or consents to seeking the modification in such other State court; with an amendment (Rept. 102-982). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5602. A bill granting the consent of the Congress to the Interstate Rail Passenger Network Compact (Rept. 102-983). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 1126. A bill to extend the coverage of certain Federal labor laws to foreign flagships; with an amendment (Rept. 102-984, Pt. 1). Ordered to be printed.

## SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 3927. Referral to the Committee on Ways and Means extended for a period ending not later than October 6, 1992.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of title X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSE:

H.R. 6092. A bill to amend the Agricultural Act of 1949 with respect to the use of certain foreign currency proceeds; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. OBERSTAR (for himself and Mr. CLINGER):

H.R. 6093. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1993, 1994, and 1995, and for other purposes; jointly, to the Committees on Public Works and Transportation, Science, Space, and Technology, and Ways and Means.

By Mr. GONZALEZ (for himself and Mr. WYLIE):

H.R. 6094. A bill to improve supervision and regulation with respect to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SWETT:

H.R. 6095. A bill to amend title IX of the Federal Property and Administrative Services Act of 1949 to provide an architectural and engineering design competition for the construction, renovation, and repair of certain public buildings, and for other purposes; jointly, to the Committees on Government Operations and Public Works and Transportation.

By Mr. WYDEN:

H.R. 6096. A bill to provide for the certification of ambulatory surgery and emergency care facilities; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. CAMPBELL of Colorado (for himself, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, Mr. BLACKWELL, Ms. NORTON, Mr. HOCHBRUECKNER, Mr. ESPY, Mr. RANGEL, Mr. FROST, Mr. MILLER of California, Mr. RHODES, Mr. HORTON, Mr. BEREUTER, Mr. PETERSON of Minnesota, Mrs. UNSOELD, Mr. DORGAN of North Dakota, Mr. HAYES of Illinois, Mrs. MINK, Mr. HERTEL, and Mr. BUSTAMANTE):

H.R. 6097. A bill to amend chapter 37 of title 38, United States Code, to establish a pilot program for furnishing housing loans to Native American veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DREIER of California:

H.R. 6098. A bill to prohibit direct Federal financial benefits and unemployment benefits for illegal aliens and to end Federal mandates for States to provide benefits for illegal aliens; to the Committee on the Judiciary.

By Mr. EMERSON:

H.R. 6099. A bill to remove inappropriate limitations on work requirements and to enhance waiver authority for welfare reform demonstration projects for the Food Stamp Program; to the Committee on Agriculture.

By Mr. GEKAS:

H.R. 6100. A bill to reform the United States health care delivery and financing system, to increase access to health care and affordable health insurance, to contain costs of health care in a manner that improves health care, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, the Judiciary, Education and Labor, and Rules.

By Mr. HENRY (for himself and Mr. ANDREWS of New Jersey):

H.R. 6101. A bill to amend the Occupational Safety and Health Act to provide for uniform warnings on personal protective equipment for occupational use, and for other purposes; to the Committee on Education and Labor.

By Mr. HUNTER:

H.R. 6102. A bill to facilitate the providing of loan capital to and investments in residential homebuilders and other small business concerns, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MILLER of Washington:

H.R. 6103. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Wenatchee River in Washington as a component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of Washington:

H.R. 6104. A bill to amend title 31, United States Code, to reduce the time period within which a member of the uniformed services or a Federal employee may make a claim against the Federal Government for losses to personal property incident to service when the personal property is in a commercial shipment or storage arranged or reimbursed by the Government; to the Committee on the Judiciary.

By Mr. NEAL of North Carolina:

H.R. 6105. A bill to establish a cabinet-level interagency task force to develop a comprehensive legislative proposal that coordinates and reforms all Federal programs that provide assistance to individuals with limited incomes; to the Committee on Government Operations.

By Mr. PAXON:

H.R. 6106. A bill to amend the Internal Revenue Code of 1986 to reduce capital gains taxes, to reinstate a 5-percent investment tax credit, and for other purposes; to the Committee on Ways and Means.

By Mr. RIDGE (for himself, Mr. SCHULZE, Mr. MCDADE, Mr. MURPHY, Mr. CLINGER, Mr. SANTORUM, Mr. WELDON, Mr. YATRON, Mr. FOGLIETTA, Mr. SHUSTER, Mr. GEKAS, and Mr. GAYDOS):

H.R. 6107. A bill to amend section 123 of the Housing and Urban-Rural Recovery Act of 1983 to require coordination with community development funding organizations in carrying out eligible neighborhood development activities under the neighborhood development program, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RITTER (for himself and Mr. GINGRICH):

H.R. 6108. A bill to establish a Bipartisan Commission on Total Quality Government; jointly, to the Committees on Government Operations House Administration, and Post Office and Civil Service.

By Mrs. SCHROEDER:

H.R. 6109. A bill to amend the Public Health Service Act to provide for grants to immunize children against vaccine-preventable diseases through programs established in elementary schools; to the Committee on Energy and Commerce.

By Mr. SHAW (for himself, Mrs. JOHNSON of Connecticut, Mr. GRANDY, Mr. EMERSON, and Mr. ARMEY):

H.R. 6110. A bill to authorize five local pilot projects for the development of community opportunity systems to demonstrate the potential for improving economic opportunity for low-income residents of the community through restructured programs providing services and benefits, and for meeting the identified priorities of the community and the needs of the individuals and families to be served; to the Committee on Government Operations.

By Mr. SHAW (for himself, Mrs. JOHNSON of Connecticut, and Mr. GRANDY):

H.R. 6111. A bill to amend parts A and F of title IV of the Social Security Act to remove certain limitations on employment-related programs, to strengthen the requirement to cooperate in paternity establishment, and for other purposes; to the Committee on Ways and Means.

By Mr. STENHOLM (for himself, Mr. BOEHNER, and Mr. HERGER):

H.R. 6112. A bill to amend the Egg Research and Consumer Information Act, to accomplish an expansion of exemption eligibility from assessments under this act and to authorize increased assessment rates if approved by producers; to the Committee on Agriculture.

By Mr. VALENTINE:

H.R. 6113. A bill to amend the Federal Transit Act, the Airport and Airway Improvement Program Act of 1982, and title 23, United States Code, to provide for utilization of the latest available census data in the administration of certain transportation programs; to the Committee on Public Works and Transportation.

By Mr. WALKER (for himself, Mr. MICHEL, Mr. GINGRICH, Mr. BLILEY, Mr. CAMPBELL of California, Mr. COBLE, Mr. FAWELL, Mr. GOSS, Mr. LEWIS of Florida, Mr. PACKARD, Mr. RHODES, Mr. RITTER, Mr. ROHRABACHER, Mr. SENSENBRENNER, Mr. SMITH of Texas, Mr. ZIMMER, Mr. DORNAN of California, Mr. EWING, Mr. BALLENGER, Mr. IRELAND, Mr. CAMP, Mr. HANCOCK, Mr. SANTORUM, Mr. OXLEY, Mr. RAVENEL, Mr. GEKAS, Mr. DOOLITTLE, Mr. KOLBE, Mr. NUSSLE, Mr. BARTON of Texas, Mr. ALLEN, Mr. THOMAS of Wyoming, Mr. UPTON, Mr. ZELIFF, and Mr. HEFLEY):

H.R. 6114. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; jointly, to the Committee on Ways and Means and Government Operations.

By Mr. DURBIN:

H.J. Res. 558. Joint resolution congratulating the Springfield Commission on International Visitors for 30 years of superb service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. TAUZIN (for himself, Mr. STUDDS, Mr. DAVIS, Mr. FIELDS, and Mr. YOUNG of Alaska):

H.J. Res. 559. Joint resolution honoring the Coast Guard Women's Reserve; to the Committee on Merchant Marine and Fisheries.

By Mr. LEWIS of Georgia (for himself and Mr. BROOMFIELD):

H. Con. Res. 370. Concurrent resolution concerning the humanitarian crisis in Somalia; to the Committee on Foreign Affairs.

By Mr. OWENS of New York:

H. Con. Res. 371. Concurrent resolution to make corrections in the enrollment of the bill, H.R. 5482; considered and agreed to.

By Mr. DELAY:

H. Con. Res. 372. Concurrent resolution expressing the sense of the Congress that the Postmaster General should not issue a commemorative postage stamp in honor of any individual who, at the time of his death, was a member of the Communist Party or was no longer a citizen of the United States because he had renounced his citizenship; to the Committee on Post Office and Civil Service.

By Mr. TORRICELLI (for himself and Mr. BURTON of Indiana):

H. Con. Res. 373. Concurrent resolution expressing the sense of the Congress that the President should prohibit the acquisition of Allison Transmission, a division of General Motors Corp., by a foreign person; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, and Foreign Affairs.

By Mr. MARTINEZ:

H. Res. 594. Resolution relating to the consideration of the Senate amendment to H.R. 5194; rules suspended; considered and agreed to.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 117: Mr. COMBEST and Mr. JONTZ.
H.R. 701: Mr. CAMPBELL of California.
H.R. 811: Mr. COX of California.
H.R. 875: Mr. COX of Illinois.
H.R. 1188: Mr. KOSTMAYER.
H.R. 1622: Mr. JENKINS.
H.R. 1886: Mr. SCHAEFER.
H.R. 2164: Mr. CAMP, Mr. BREWSTER, Mr. PANETTA, and Mr. GILLMOR.
H.R. 2348: Mr. PAXON.
H.R. 2511: Mr. LEHMAN of California.
H.R. 2528: Mr. JAMES.
H.R. 2595: Mr. CAMPBELL of California.
H.R. 2618: Mr. ROE, Mr. MINETA, Mr. HANSEN, Mr. DURBIN, Mrs. KENNELLY, Mr. SPENCE, Mr. SKEEN, Mr. BRUCE, and Mr. FAZIO.
H.R. 2643: Mr. CAMPBELL of California.
H.R. 2695: Mr. SHAYS.
H.R. 3056: Mr. SIKORSKI.
H.R. 3102: Mr. TRAFICANT, Mr. COLORADO, and Mrs. COLLINS of Illinois.
H.R. 3517: Mr. WALSH, Mr. HAYES of Illinois, Mr. KLUG, and Mr. SARPALIUS.
H.R. 3518: Mr. BILIRAKIS.
H.R. 3780: Mr. CAMPBELL of California.
H.R. 3801: Mr. FISH.
H.R. 4182: Mr. CAMPBELL of California and Mr. STUMP.
H.R. 4207: Mr. ORTON and Mr. POSHARD.
H.R. 4224: Mr. CAMPBELL of California.
H.R. 4271: Mr. TOWNS.
H.R. 4315: Mr. CAMPBELL of California.
H.R. 4385: Mr. ENGEL.
H.R. 4457: Mrs. LOWEY of New York.
H.R. 4530: Mr. CAMPBELL of California.
H.R. 4585: Mr. SHAYS.
H.R. 4684: Mr. CAMPBELL of California.
H.R. 4749: Mr. CAMPBELL of California.
H.R. 4764: Mr. MCCRERY, Mr. KANJORSKI, Mr. DUNCAN, Mr. STUMP, Mr. MCMILLEN of Maryland, and Mr. RHODES.
H.R. 4851: Mr. CAMPBELL of California.
H.R. 4852: Mr. CAMPBELL of California and Mr. COX of California.
H.R. 4853: Mr. CAMPBELL of California and Mr. COX of California.
H.R. 4854: Mr. COX of California.
H.R. 4857: Mr. CAMPBELL of California.
H.R. 4859: Mr. CAMPBELL of California.
H.R. 4860: Mr. COX of California.
H.R. 4861: Mr. COX of California.
H.R. 4862: Mr. COX of California.
H.R. 4863: Mr. COX of California.
H.R. 4864: Mr. COX of California and Mr. CAMPBELL of California.
H.R. 4865: Mr. CAMPBELL of California.
H.R. 4866: Mr. CAMPBELL of California.
H.R. 4868: Mr. CAMPBELL of California.
H.R. 4869: Mr. CAMPBELL of California and Mr. COX of California.
H.R. 4870: Mr. CAMPBELL of California.
H.R. 4871: Mr. CAMPBELL of California and Mr. COX of California.
H.R. 4872: Mr. CAMPBELL of California and Mr. COX of California.
H.R. 4875: Mr. CAMPBELL of California and Mr. COX of California.
H.R. 4876: Mr. COX of California.
H.R. 4878: Mr. CAMPBELL of California.
H.R. 5003: Mr. COX of California.
H.R. 5106: Mr. GOSS.
H.R. 5201: Mrs. LLOYD.
H.R. 5208: Mr. MOODY.
H.R. 5216: Mr. BROWDER, Mr. ZELIFF, and Mr. INHOFE.
H.R. 5266: Mr. LEHMAN of California and Mr. FROST.
H.R. 5294: Mr. PAYNE of Virginia and Mr. BUSTAMANTE.
H.R. 5297: Mr. ROTH, Mr. FISH, Mr. KLUG, Mr. MCCLOSKEY, Mrs. LLOYD, Mr. SHAW, Mr. DREIER of California, Ms. SNOWE, Ms. KAPTUR, Mr. WILLIAMS, Mr. ROSE, Mr. LIVINGSTON, and Ms. LONG.
H.R. 5320: Mr. TOWNS.
H.R. 5357: Mr. SKAGGS and Mr. MORAN.
H.R. 5364: Mr. RANGEL and Mr. SERRANO.
H.R. 5367: Mr. ROWLAND, Mr. RAVENEL, Mr. OWENS of Utah, Mr. LAGOMARSINO, Mr. WOLPE, Mr. BACCHUS, and Mr. MCNULTY.
H.R. 5398: Mr. MATSUI.
H.R. 5449: Mr. SHAYS, Mr. PAXON, and Mr. OLVER.
H.R. 5526: Mr. DORNAN of California, Mr. SKEEN, Mr. BLAZ, and Mr. MACHTLEY.
H.R. 5580: Mr. HAYES of Illinois.
H.R. 5593: Mr. RHODES.
H.R. 5613: Mr. RANGEL and Mr. MARKEY.
H.R. 5680: Mr. GUARINI, Mr. TORRICELLI, Mrs. SCHROEDER, Mr. GONZALEZ, and Mr. MANTON.
H.R. 5709: Mr. CRANE.
H.R. 5732: Mr. HANCOCK and Mr. CAMP.
H.R. 5772: Mr. ZELIFF and Mr. NUSSLE.
H.R. 5783: Mr. MACHTLEY and Mr. EDWARDS of California.
H.R. 5842: Mr. ANDERSON, Mr. ANNUNZIO, Mr. BONIOR, Mr. BROOMFIELD, Mr. BACCHUS, Mr. CHAPMAN, Mr. CARPER, Mr. DINGELL, Ms. DELAURO, Mr. DELAY, Mr. FRANKS of Connecticut, Mr. GEPHARDT, Mr. GRANDY, Mr. GOODLING, Mr. GINGRICH, Mr. HEFNER, Mr. HENRY, Mr. KYL, Mr. MATSUI, Mr. MCNULTY, Mr. MONTGOMERY, Mr. MINETA, Mr. MICHEL, Mr. OBERSTAR, Ms. OAKAR, Mr. PETERSON of Florida, Mr. PURSELL, Mr. ROSE, Mr. RAY, Mr. RICHARDSON, Mr. ROBERTS, Mrs. ROUKEMA, and Mr. SCHEUER.
H.R. 5862: Mr. SERRANO.
H.R. 5865: Mr. GILLMOR, Mr. RANGEL, Ms. KAPTUR, and Mr. VISCLOSKY.
H.R. 5866: Mr. GILLMOR, Mr. RANGEL, Ms. KAPTUR, Mr. VISCLOSKY, and Mr. ZELIFF.
H.R. 5867: Mr. OLVER.
H.R. 5880: Mr. CLEMENT.
H.R. 5883: Mr. RANGEL and Ms. NORTON.
H.R. 5928: Mr. FROST.
H.R. 5947: Mr. PETERSON of Florida.
H.R. 5960: Mr. NICHOLS, Mr. GALLEGLY, Mr. COLEMAN of Missouri, and Mr. KASICH.
H.R. 5973: Mr. DELLUMS, Mr. ACKERMAN, Mr. HAYES of Illinois, and Mr. TOWNS.
H.R. 5977: Mr. ALLARD, Mr. LIGHTFOOT, Mr. DORNAN of California, Mr. DOOLEY, Mr. KOSTMAYER, Mr. MCDADE, Mr. ENGLISH, Mr. GOSS, Mr. CAMP, Mr. LEHMAN of California, and Mr. PAXON.
H.R. 6020: Mr. SARPALIUS.
H.R. 6033: Mrs. MINK, Mr. BLACKWELL, and Mr. BEREUTER.
H.R. 6051: Mr. MOAKLEY.
H.R. 6065: Mr. DOWNEY.
H.R. 6075: Mr. BEVILL, Mr. CAMPBELL of Colorado, Mr. BACCHUS, Mr. HEFNER, Mr. NOWAK, Mr. ABERCROMBIE, Mr. SANDERS, Mr. RHODES, Mr. MARTINEZ, Mr. BOUCHER, Mr. MCCLOSKEY, Ms. LONG, Mr. COLEMAN of Missouri, Mr. JOHNSON of South Dakota, Mr. KANJORSKI, Ms. OAKAR, Ms. DELAURO, Mr. AUCOIN, Mr. TANNER, Mr. SCHIFF, Mr. VISCLOSKY, Mr. DARDEN, and Mrs. UNSOELD.
H.J. Res. 196: Mr. LEHMAN of Florida.
H.J. Res. 449: Mr. HOCHBRUECKNER, Mr. SANDERS, Mr. SCHIFF, and Mrs. UNSOELD.
H.J. Res. 474: Mr. FROST, Mr. LAUGHLIN, Mr. CARPER, Ms. LONG, Mr. WISE, Mr. STUDDS, Mr. DICKINSON, Mr. SKELTON, Mr. LANCASTER, Mr. SARPALIUS, Mr. PANETTA, Mr. SPRATT, Mr. MONTGOMERY, Mr. PARKER, Mr. REGULA, Mr. RAY, Mr. HUTTO, Mr. GEREN of Texas, Mr. HARRIS, Mr. MCCOLLUM, Mr. WEBER, Mr. GILCHREST, Mr. CAMP, Mr. LAGOMARSINO, Mr. FORD of Michigan, Mr. MCNULTY, Mr. BAKER, Mr. CHAPMAN, Mr. CONYERS, Mr. ANDERSON, Mr. MORAN, Mr. HENRY, Mr. JOHNSTON of Florida, Mr. STENHOLM, Mr. BACCHUS, Mr. WAXMAN, Mr. ACKERMAN, Mr. SERRANO, Mr. SANGMEISTER, Mr. INHOFE, Mr. ECKART, Mr. JENKINS, Mr. SWIFT, Mr. RUSSO, Mr. LUKEN, Mr. HOAGLAND, Mr. LEVINE of California, Mr. GEJDENSON, Ms. PELOSI, Mr. RAHALL, Mr. BEILENSON, Mr. MRAZEK, Mr. DINGELL, Mr. ENGEL, Mr. LEVIN of Michigan, Mr. MCDERMOTT, Mr. DURBIN, Mr. KOPETSKI, Ms. MOLINARI, Mr. ABERCROMBIE, Mr. MINETA, Mr. KANJORSKI, Mr. OBERSTAR, Mr. BURTON of Indiana, Mr. BUNNING, Mr. SHAYS, Mr. MILLER of California, Mr. MARKEY, Mr. WYDEN, Mr. BORSKI, Mr. BONIOR, Mr. CAMPBELL of Colorado, Mr. COSTELLO, Mr. ANTHONY, Mr. ROWLAND, Mr. HUGHES, Mr. NEAL of Massachusetts, Mr. WASHINGTON, Mr. VALENTINE, Mr. DARDEN, Mr. DERRICK, Mr. DIXON, Mr. SCHUMER, Mrs. BYRON, and Mr. MURPHY.
H.J. Res. 479: Mr. ROBERTS, Mr. BOEHLERT, Mr. THOMAS of Wyoming, Mr. INHOFE, Mr. HEFLEY, Mr. HASTERT, Mr. ROGERS, Mr. SMITH of Iowa, Mr. ARMEY, Mr. BALLENGER, Mr. BUNNING, Mr. DELAY, Mr. HOPKINS, Mr. RIDGE, Ms. KAPTUR, Mr. NAGLE, Mr. VISCLOSKY, and Mr. FORD of Tennessee.
H.J. Res. 531: Mr. MAVROULES, Mr. BLACKWELL, Mr. BROOMFIELD, Mr. WOLF, Mr. FISH, Mr. SERRANO, Mr. SIKORSKI, Mr. MCEWEN, Mrs. LOWEY of New York, and Mr. MARKEY.
H.J. Res. 538: Mr. MORRISON, Mr. QUILLEN, and Mr. SLATTERY.
H.J. Res. 543: Mr. RICHARDSON, Mr. ROBERTS, Mr. REGULA, Mr. TALLON, Mrs. UNSOELD, Mr. RINALDO, Mr. HAMMERSCHMIDT, Mr. PARKER, Ms. SLAUGHTER, Mr. HATCHER, Mr. STARK, Ms. MOLINARI, Mr. GREEN of New York, Mr. LEHMAN of California, Mr. BRYANT, Mr. BILIRAKIS, Mr. DARDEN, Mr. GRANDY, Mr. JEFFERSON, Mr. OBERSTAR, Mr. SARPALIUS, Mr. MCCRERY, Ms. OAKAR, Mr. MORRISON, Mr. SLATTERY, Ms. HORN, Mr. WYDEN, Mr. ANDERSON, Mr. TRAXLER, Mr. MCCLOSKEY, Mr. RAHALL, Mr. RUSSO, Mr. PAXON, Mr. TORRICELLI, Mr. STOKES, Mr. DICKS, Mr. CARPER, Mr. EDWARDS of Texas, Mr. LAUGHLIN, Mrs. BENTLEY, Mr. BROWDER, Mrs. MORELLA, Mr. BOUCHER, Mr. MURTHA, Mr. SOLARZ, Mr. OWENS of New York, Mr. SERRANO, Mr. ANTHONY, Mr. OWENS of Utah, Mr. KENNEDY, and Mr. TAUZIN.
H.J. Res. 547: Mr. HOAGLAND, Mr. RANGEL, Mr. FAZIO, and Mr. JONTZ.
H.J. Res. 548: Mr. HUGHES, Mr. SABO, Ms. ROS-LEHTINEN, Mr. EVANS, Mr. ANDREWS of New Jersey, Mr. SKAGGS, Mr. PORTER, Mr. EDWARDS of California, Mr. SANDERS, Mr. JONES of Georgia, Mr. JOHNSTON of Florida, Mr. FRANK of Massachusetts, Mr. ENGEL, and Mr. DOOLEY.
H.J. Res. 549: Mr. YATES, Mr. CAMPBELL of Colorado, Mr. BACCHUS, Mr. FORD of Tennessee, Ms. ROS-LEHTINEN, Ms. MOLINARI, Ms. SLAUGHTER, Mr. HALL of Texas, Mr. JOHNSTON of Florida, and Mr. DOOLEY.

H.J. Res. 552: Mr. SOLARZ and Mrs. LOWEY of New York.

H. Con. Res. 11: Mr. GILMAN.

H. Con. Res. 362: Mr. SHAYS, Mr. DORNAN of California, Mr. WALSH, and Mr. JOHNSON of Texas.

H. Con. Res. 363: Mr. WEBER, Mr. KOLBE, Mr. BILBRAY, Mr. RHODES, Mr. WELDON, Mr. MCEWEN, Ms. ROS-LEHTINEN, Mr. BUNNING, Mr. HUNTER, Mr. DUNCAN, Mr. DORNAN of California, Mr. DELAY, Mr. CRANE, Mr. HANCOCK, Mr. MILLER of California, Mr. FISH, Mr. SHAYS, Mr. LIVINGTON, Mr. SUNDQUIST, Mr. COX of California, Mr. LEWIS of California, Mr. COMBEST, Mr. UPTON, Mr. COBLE, Mr. DANNEMEYER, Mr. HYDE, Mr. HOLLOWAY, Mr. WALKER, Mr. GINGRICH, Mr. SOLOMON, Mr. BILIRAKIS, Mr. JAMES, Mr. SAXTON, Mr. MOORHEAD, Mr. CAMP, Mr. BALLENGER, Mr. ROTH, Mr. GRANDY, Mr. SMITH of New Jersey, Mr. STEARNS, Mr. RAMSTAD, Mr. ROHRABACHER, Mr. SISISKY, Mr. WOLF, Mr. BATEMAN, Mr. DEFAZIO, Mr. HENRY, Mr. RANGEL, Mr. FROST, Mr. ACKERMAN, and Mr. WAXMAN.

H. Res. 515: Mr. SHAYS.

H. Res. 538: Mr. MFUME and Mr. GILMAN.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 529: Mr. CAMPBELL of California.

# EXTENSIONS OF REMARKS

## TRIBUTE TO FLORINE WARDEN

### HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. RAHALL. Mr. Speaker, today, I want to pay tribute to Florine Warden who is well known for her public service contributions to the Raleigh County community and throughout southern West Virginia.

Whenever there is a need for the people's voice to be heard, Florine Warden's voice is the one you hear. Florine's untiring efforts in the community range from her campaign to beautify the Robert C. Byrd Drive in Beckley, WV, to establishing the Tri-County Baseball Association, to secure a professional minor league baseball team in southern West Virginia.

Florine has taken a stand on many issues of concern to the community and has been a leader in bringing those issues to the forefront. She is a friend to those in need and is always ready to lend a helping hand.

## A TRIBUTE TO ROBERT PATRICK KELLIHER

### HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. NEAL of Massachusetts. Mr. Speaker, it is with pleasure that I pay tribute to a generous gentleman from Springfield, MA, who is retiring from the Springfield Public School District after 26 years of service as principal of Glenwood School, the longest tenure in the history of the Springfield Public School District.

Robert Patrick Kelliher grew up in Worcester, MA, where he received his high school diploma from the Worcester Public School District. After high school, Robert was called to serve his country in the Korean war. He was on active duty from 1951 until 1953. Following the Korean war, Robert married Phyllis Olson and they had two daughters, Nancy and Laurie. Robert is also the proud grandfather of three. In 1957, Robert graduated from Worcester State Teachers College. He continued his education at Westfield State College where he received his master's degree in education in 1961. At the University of Connecticut, Robert received his C.M.G.S. in public school administration in 1965.

Robert began his career as in educator in 1957 as a teacher at Memorial School. He remained there until 1964 when he transferred to Dorman and Balliet School as an assistant to the principal. He transferred again in 1965 to the Glenwood and Liberty Schools where he was the assistant principal. In 1966, he made his final transfer to the Glenwood School where he became principal.

Robert's contribution to the educational community was not only within Glenwood School. He established a teacher's training school in conjunction with Our Lady of the Elms for many years. As well as educating the high school students in the Springfield Public School District, Robert also worked as a visiting instructor at Elms College. As a fundraiser, Robert is outstanding. Robert raised money for the cancer fund by selling daffodil flowers over a period of several years. These flowers were then given to patients in area hospitals and nursing homes. Robert was also involved in a statewide committee which evaluated teacher's training programs for accreditation purposes. For homeless children, Robert established an after school program with the Springfield Boys' Club.

Robert's contribution to his family, his community and the students of the Springfield Public School District is truly remarkable. As an educator his impact on the Springfield community is extraordinary.

Mr. Speaker, please join with me and the family and friends of Robert Patrick Kelliher, in wishing him a long, happy and healthy retirement. He certainly deserves it.

## DOMESTIC VIOLENCE MUST STOP

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. MAZZOLI. Mr. Speaker, on September 30, 1992, the House Judiciary Committee, on which I am proud to serve, unanimously approved three measures to combat domestic violence. I hope the House acts expeditiously on these bills and sends them to the President for his signature.

During committee consideration, I took the opportunity to express my strong support for the measures. The text of my remarks follows:

STATEMENT OF ROMANO L. MAZZOLI

Mr. Chairman, I am proud to support three measures before the Committee this morning that will help combat the rising tide of violence against women and families. Thank you for including them on the agenda for our consideration.

I commend the gentleman from New Jersey, Mr. Hughes, for his support and for guiding these bills through the panel he chairs. and, I appreciate the outstanding efforts of the gentlewoman from Maryland Mrs. Morella, on behalf of this critical issue.

For the record, I also support the Violence Against Women Act, which includes these measures. I look forward to joining my colleagues on the Committee and in the House in securing the enactment of that vital measure.

H.R. 1252, H.R. 1253, and H. Con. Res. 89, individually and as a legislative package, will assist battered women in obtaining equal justice in state courts. Allowing for the admission of expert testimony and making funds available for abused defendants to obtain expert testimony in criminal cases, will help victims receive a fair trial. Furthermore, authorizing funds for the development and dissemination of model training programs for judges in sexual assault and domestic violence cases, as well as child custody cases involving domestic violence, will go a long way toward meeting the important goal of equal justice.

Communities across the country are making strides in the public battle against what is sometimes referred to as the dark problem or abuse. Drawing attention to this problem, in fact, was the purpose of a recent candlelight vigil held in my hometown of Louisville, Kentucky, and sponsored by the Louisville Chapter of the National Organization for Women.

Other efforts in my community and state of which I am particularly proud, include the establishment of the Jefferson County Office for Women by Jefferson County Judge/Executive David Armstrong in 1991. Under the leadership of Marcia Roth, Office Director, examining the issue of domestic violence was the first task of the Office's Advisory Committee. That examination led to the development and implementation of sound policies that contribute to the successful prosecution of domestic violence cases.

In Louisville, we are also fortunate to be able to make available much-needed services to women and children who are victims of domestic violence. The Center for Women and Families, which I had the privilege of visiting earlier this week, provides emergency shelter, counseling, and transitional housing for these victims. In fact, its Spouse Abuse Program is regarded as a national leader because of its innovative programming.

Finally, the Kentucky Commission on Women is also very active in addressing the issue of domestic violence. The Commission's Executive Director, Marsha Weinstein, who is also a member of the Kentucky Attorney General's Task Force on Domestic Violence Crime, joined her colleagues on the Commission in supporting the passage of several domestic violence measures by the Kentucky General Assembly.

Mr. Chairman, domestic violence must stop. I strongly support these measures and I urge their passage.

## NATIONAL VETERANS AFFAIRS OFFICER OF THE YEAR

### HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an outstanding individual from my congressional district of Illinois, Stanley Mageria, who has been selected as the National Veterans Affairs Officer of the Year in the Small Business Administration [SBA].

Mr. Mageria is a Veterans Affairs Officer in the SBA's region V office in Chicago, IL. I am proud of the fine job he has done and continues to do for our veteran community. Mr. Mageria's commitment is impressive and deserving of special recognition.

I ask you, my fellow colleagues, to join me in congratulating Stanley Mageria for his outstanding achievement on behalf of our country's veterans.

## IN HONOR OF MAYOR RON DUNIN

### HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to an outstanding leader and a dedicated public servant. Ron Dunin, mayor of San Luis Obispo, CA, has given years of dedication and service to his community, and we, the people of the 16th District of California are deeply grateful. I am pleased to have this opportunity to express my sincere appreciation for his many years of commitment and hard work.

From 1938 until 1945 Ron was a member of the Polish forces in Poland, France, and the United Kingdom, and was decorated by the governments of all three countries. He came to San Luis Obispo County, from the United Kingdom, in 1965, where he has served his community ever since. He has been a member and chairman of many city and civic boards and committees from 1965 to the present. In 1977 he was elected to the city council of San Luis Obispo, where he served until he was elected the mayor of San Luis Obispo in 1985. He has served three terms as mayor, and will be retiring this year.

Ron's contributions have been many. He has been an outstanding leader in the community and an example to all those who strive to help their country and their communities through hard work, dedication and public service. His retirement is certainly a well-deserved one, but we are nevertheless very sorry to see him go.

Mr. Speaker, I ask my colleagues to join me in recognizing Ron for his many years of outstanding service and wish him well during what I am sure will be many happy years of retirement.

## A SALUTE TO DAN R. BANNISTER

### HON. JAMES P. MORAN, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. MORAN. Mr. Speaker, on behalf of my colleague, Representative FRANK WOLF of the 10th District of Virginia and myself, we want to bring to our colleagues' attention the annual Northern Virginia Foundation's Founders' Award which will be presented this year on October 24 at the Sheraton Premiere at Tysons Corner. The award will be presented to a most exemplary citizen of northern Virginia—Dan R. Bannister of Great Falls.

The Founders' Award is presented annually in recognition of outstanding community service and dedication to the betterment of the northern Virginia community. The Northern Virginia Community Foundation [NVCF] was established in 1978 by a group of northern Virginia residents seeking to improve the community in which they live. The foundation is a nonprofit community endowment from which funds are used to support the arts, education, health, youth programs, and civic improvement for the benefit of the citizens of northern Virginia.

This year's award recipient—Dan R. Bannister—has a history of dedicated service to both the business and civic communities in northern Virginia. Dan Bannister is president and CEO of DynCorp. In his capacity as president and CEO, Mr. Bannister has seen the company through some of its most challenging times. In 1988 following a hostile takeover attempt, Mr. Bannister led a team of top managers through a successful leveraged buy out of the company which included the installation of an employee stock ownership plan, making DynCorp one of the largest majority employee owned companies in the country. Shortly thereafter, Mr. Bannister launched a total quality management program designed to clench the company's industry leadership. Today DynCorp is a leader in the quality movement. In 1990, a diversification program was implemented to increase DynCorp's growth and improve its business mix. By 1991, six acquisitions had been completed and DynCorp's defense contracts had been reduced from 73 percent in 1988, to 63 percent and a new operating group was formed to provide high-technology services to non-DOD customers.

Mr. Bannister studied at the University of Arizona and the University of Illinois, and in 1982 completed the Harvard University Advanced Management Program. In his professional affiliations Mr. Bannister has been widely involved in both the armed services and business communities. He has served as a chapter president of the Air Force Association. He is an active member of the Army Aviation Association of America, the Association of the U.S. Army, the Association of Naval Aviation, and the Professional Services Council. He also serves on the national board of advisors of the National Contract Management Association, the general management council of the American Management Association, the board of directors of Fairfax County, Virginia Chamber of Commerce, and as secretary and director of the ESOP Association and as a director of the Washington Airports Task Force.

Mr. Bannister also has a number of achievements in his charitable associations. He is an active member of the Easter Seals Society, the AAAA Scholarship Foundation, the American Medical Association Board of Trustees, the Wesley Housing Board, the Fairfax County Symphony Board, the George Washington University Graduate School Advisory Board, and serves as chairman of the Combined Health Appeal, the George Mason University Arts Gala, and the Joe Gibbs Youth for Tomorrow Country Fair.

Over the past year Dan R. Bannister and DynCorp have received the following awards: The 1992 Best of Reston Award for community service, the 1992 KPMG Peat Marwick High Tech Entrepreneur Award, the 1992 Emerging Company Award from the Washington Chapter of the Association for Corporate Growth, the 1991 Employer of the Year from the Virginia American Legion, and the 1991 Army Aviation Association of America's [AAAA] Material Readiness Award, in recognition of DynCorp's efforts in support of Operation Desert Storm.

Dan R. Bannister has contributed enormously to the betterment of northern Virginia and on behalf of Congressman WOLF and myself, we offer our congratulations to both Mr. Bannister and his family on receiving the Northern Virginia Community Foundation's Founders' Award and our appreciation for his outstanding community service.

## CFC REPLACEMENT REFRIGERANTS

### HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. YATES. Mr. Speaker, a constituent of mine, David Goldberg, is the chairman of the board of directors of the Air-Conditioning & Refrigeration Institute. He has sent the following statement to me detailing the progress the institute is making with regard to locating efficient and usable CFC replacement refrigerants. I ask that the text of that statement be inserted as a part of the RECORD.

STATEMENT OF ARNOLD W. BRASWELL, PRESIDENT, AIR-CONDITIONING & REFRIGERATION INSTITUTE

Sixty years ago when breakthrough chemicals called chlorofluorocarbons were first introduced as refrigerants, known better then by the trade name Freon, no one would have believed that this extraordinary boon to mankind would become an environmental danger.

Thanks to modern refrigeration equipment using CFCs, vast improvements were made in food preservation and distribution. CFCs also made it possible to create efficient air conditioning at home and the workplace, making day-to-day life much more comfortable and work much more productive.

But decades later scientists now tell us that this extraordinarily important chemical family must be phased out because chlorine in CFC compounds is causing depletion of the earth's protective ozone layer. As a result, 24 nations and the European Economic Community on September 16, 1987 signed the Montreal Protocol on Substances that Deplete Ozone in a concerted world-wide effort to reduce consumption and production of the CFC compounds.

Earlier this year a working group of signatories to the Montreal Protocol met to refine recommendations and adjustments to the Protocol which will be considered in Copenhagen in November. These revisions very likely will result in acceleration of earlier agreed to phase out dates for CFCs and a mandatory long-term phase out plan for hydrochlorofluorocarbons (HCFCs), which deplete ozone at only one twentieth of the rate of CFCs and are used today to replace CFCs in many applications.

This upcoming meeting is important for several reasons. First, as a world leader and a nation heavily dependent on refrigerants,

the United States has an important stake in the decisions reached in Copenhagen. This is a global issue. We cannot assume this is a problem affecting only the United States or Europe. Developing nations too are joining in the shift from CFCs. But the search for alternatives is not an easy undertaking. Clearly, it is desirable to move from CFCs to HCFCs as transition refrigerants wherever possible. But, we need an intensive research effort to find the best substitute refrigerants for both CFCs and HCFCs.

And that is my second reason for bringing up this important topic. If, as expected, the Montreal Protocol does accelerate the phase out of CFCs and HCFCs, it will be possible only if there are substitute refrigerants. But the industries that rely on refrigerants must know how every substitute refrigerant will interact with existing and yet-to-be-developed air conditioning and refrigeration machines. For that reason, research is underway in a number of laboratories to test these chemicals for a wide variety of reactions.

In fact, scientists and others from government and industry gathered this week in Washington at the 1992 International CFC and Halons Alternatives Conference, to discuss a wide range of issues including interim results of industry research into the compatibility of substitute refrigerants, particularly hydrofluorocarbons (HFCs) and HCFCs, with plastics, elastomers and other compressor motor materials.

The issues are complex, but there is a sense of commitment at this conference that was summed up in the words J.A. Krol of the DuPont Company who noted that "the orderly phase-out and replacement of CFCs will be one of the great industrial achievements of the post-World War II era. No technological transition of this magnitude has ever been mandated to take place in so short a span of time for the sole purpose of protecting the global environmental commons."

As we all know, there are billions of dollars of equipment in place that use CFCs. But there is no single product that can be used to replace the CFCs in this equipment even though production of CFCs in the United States will cease at the end of 1995.

Fortunately, research undertaken with the encouragement of the Congress and the cooperation of industry, with funding being provided by the Department of Energy and the Air-Conditioning and Refrigeration Institute (ARI), is beginning to provide very useful information. This study, called the Materials Compatibility and Lubricants Research Study, will run for the next several years in laboratories across America.

While it is too early to reach conclusions, I am pleased to report that the interim results are encouraging. Based on tests completed to date, it appears that HFCs and HCFCs are compatible for use with many of the materials typically used in CFC-based air conditioning and refrigeration systems. I must emphasize that these tests are not complete. Also, HFCs and HCFCs are being studied separately for energy efficiency, cooling capacity, toxicity and flammability. The research is complex and much work remains to be done.

But at least the interim results being released at the conference indicate that compatibility of materials with HCFCs and HFCs will probably pose no insurmountable problems for long-term equipment development. These scientific reports are excellent examples of how industry and government are working together on a solution to the refrigerant problems.

Obviously, one company working alone cannot solve this problem. The complexity of testing the materials used in refrigeration equipment is not easy to describe. There are literally dozens of different plastics and elastomers used in compressors, and a number of possible alternative refrigerants. That's why this research would not have been possible without the dedicated efforts of scientists and researchers working in private laboratories of the manufacturers of air conditioning and refrigeration equipment.

In a separate project fully funded by industry called the Alternative Refrigerants Evaluation Program (AREP), manufacturers have agreed to join together in a cooperative enterprise to identify and test new refrigerants that will be the most suitable replacements for the widely used refrigerant, HCFC-22. The testing activity is being managed by the Air-Conditioning and Refrigeration Institute, guided by a task force of senior executives established and headed by the Chairman of the Board of Directors of that institute, Mr. David Goldberg of Chicago. A total of 12 U.S. manufacturers are participating in this new program. The testing work is being done in their company laboratories and the data obtained from these tests will be shared among the manufacturers and with the public.

Very significantly, when manufacturers in Europe and Japan were informed by ARI about this new program, ten manufacturers from Europe and ten from Japan volunteered to participate and were welcomed into the program by the U.S. industry. Therefore, we now have a truly international industry effort to test and identify new refrigerants which have the best performance characteristics as long-term replacements for our most important and widely used refrigerant.

Also participating in this cooperative program in the electric utility industry under the sponsorship of the Electric Power Research Institute, which is sponsoring special heat transfer tests with new refrigerants.

The ARI and all the companies participating in AREP are to be congratulated. This extraordinary effort will be successful because of the attention to detail and exhaustive care being shown by the industry. This assignment is not an easy one and requires a huge effort. While AREP looks at performance and MCLR studies compatibility, an international consortium of chemical companies tests alternative refrigerants for toxicity. The Program for Alternative Fluorocarbon Toxicity Testing (PAFT) was created in 1988 to conduct toxicological evaluations of alternatives to CFCs. It has published some reports and is actively engaged today, at some great expense, in on-going evaluations.

In considering the scope of these efforts, I recommend the words of Mr. Goldberg, who in addition to his role with ARI also serves as the chairman of the Air-Conditioning and Refrigeration Technology Institute. He says "I don't think there has ever been a case before where our industry has sent in data from their private labs to share with other people. This is happening on a very encouraging scale. Major producers are donating research that has cost them millions of dollars."

It is clear industry and government can successfully work together to solve environmental problems. I am pleased by the progress being made to resolve this problem and I congratulate the people of the air conditioning and refrigeration industry who are working so hard to overcome this difficult challenge.

## LIBERTY AND JUSTICE FOR ALL

### HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. DYMALLY. Mr. Speaker, at a meeting of the Congressional Black Caucus' Braintrust on Science and Technology, which I chaired, the Administrator of NASA, Daniel S. Goldin, made a remarkable address which I would like to share with all of my colleagues and the Nation. If all of our agency heads were as sensitive and as committed to the principles of equal justice as he, we would be much further along towards realizing the American dream of a society with liberty and justice for all.

REMARKS BY NASA ADMINISTRATOR DANIEL S. GOLDIN, CONGRESSIONAL BLACK CAUCUS FOUNDATION, WASHINGTON, DC, SEPTEMBER 25, 1992

Thank you, Congressman Dymally, for that introduction. I am delighted to meet with such a distinguished group during your 22nd annual legislative weekend. I was impressed with the broad range of Braintrust Workshops, Issue Forums, and Roundtable discussions planned for this conference. I commend Congressman Alan Wheat, president of the Congressional Black Caucus Foundation; Congressman Edolphus Towns, chairman of the CBC; Congressman Mike Espy, chairman of this weekend conference; and I especially want to thank Congressman Stokes for arranging for me to be here, because I very much wanted to bring to you the message today that NASA wants to be a part of your dream. Let me explain:

Every space shuttle that lifts off from Florida carries more than just astronauts. It carries the pride of America. And America has never had a better reason to feel proud than the flight of Dr. Mae Jemison—the first African American woman to fly in space.

She grew up on the South Side of Chicago during the years of the March on Washington and the great civil rights struggle. Back then, there were no female astronauts. There were no black astronauts. But it didn't matter. Martin Luther King had a dream, and Mae Jemison had a dream, too.

As the Administrator of NASA, I could not be more proud of any group of individuals as I am of our astronauts. They are multi-talented, super-smart, many with more than one doctorate. The qualifications they have to meet are probably the toughest of any job in the world.

It should come as no surprise, then, that our astronaut corps represents the full cultural diversity of America. We didn't have to go out and find the best from every segment of society; they came looking for us.

It takes more than just astronauts, though, to have a space program. It takes engineers to build spacecraft. It takes scientists to plan experiments. It takes procurement officers, and accountants, and computer programmers. In all these positions, NASA must represent the full cultural diversity of America so that children can have role models to show them that a good education can give them an inspiring, well-paying job.

I grew up in the Bronx at a time when it was home to dozens of different racial and ethnic groups. Throughout my life, I have enjoyed the energy, creativity and different points of view that emerge when cultural diversity is present in the community and the workplace.

Our nation is a wonderful mosaic of diverse people. But for many, the promise of the American Dream appears far out of reach. Before moving to Washington this spring, I spent the last 25 years living in Los Angeles. The terrible sights broadcast from South Central a few months ago deeply disturbed me. The violence we saw was truly a national tragedy. To prevent future tragedies, we need to offer people hope, inspiration, and opportunity.

That's why I am personally and deeply committed to making NASA a model for the nation in building a culturally diverse workforce at every level.

We need a space program that keeps America on the competitive cutting edge. We need to make sure that job opportunities in this exciting business are open to every American. And we need to have a space agency filled with role models for our young people—at every level.

When I was approached by the Administration about taking this job, I told them how committed I was to bringing more cultural diversity to NASA, and increasing the opportunities for minorities and women. President Bush not only supported me in that, he enthusiastically endorsed that goal.

I've been fortunate to be able to convince highly qualified and talented minorities and women to join me in managing NASA. My first appointments were Fred Gregory as Associate Administrator for Safety and Mission Quality, and Charlie Bolden as Assistant Deputy Administrator in Charge of reviewing all the agency's programs. Both had been outstanding astronauts, and were ready for new challenges.

Later, however, I was extremely upset to learn that NASA had so few African Americans, Hispanics, Asians, and Native Americans in our Senior Executive Service, particularly among the SES corps at the NASA Centers. I have asked every NASA Center director and associate administrator to change this situation. Each one now has a plan for cultural diversity that I will hold them accountable for achieving. The kind of world class talent NASA needs is not bounded by race or sex. We intend to find the best, and enrich NASA's cultural diversity.

While broadening our workforce, we also seek to broaden our contractor base. We are committed to making NASA's small and disadvantaged business program the best in the country—an example that government and industry will seek to emulate.

While Congress has imposed on NASA an 8 percent goal for contracting to small and disadvantaged businesses, NASA had upped the ante. Congress did not set a deadline for meeting the goal, but we have imposed one on ourselves: 1994. Between now and the end of fiscal year 94, we plan to offer significant prime and subcontracting opportunities to minority- and woman-owned businesses.

In fiscal year 1991, we awarded $712 million dollars in prime and subcontracts to small and disadvantaged businesses, including woman-owned businesses—that's 6 percent of NASA's total spending. Just last month, the Kennedy Space Center selected an 8(a) (minority) firm for a $75 million contract, with options up to $150 million, for telerobotics and other high tech devices.

Meeting our goal will not be easy. But we are committed to it. Among the steps we are taking:

Establishing firm percentages for small and disadvantaged business subcontracting as part of our prime contracts.

Making use of small and disadvantaged business subcontracting as an important evaluation factor in every source selection.

Rewarding prime contractors with special award fees when they exceed their subcontracting goals by certain percentages.

Last week, we received final approval and I'm pleased to announce today that we are setting up a NASA Minority Business Resource Advisory Committee.

This Committee will help us identify more businesses that should be a part of the NASA family. I invite you to nominate members for this committee. Send their names to my office within a few weeks, because we're ready to get started. This committee will help disprove the notion that there are no high tech small and disadvantaged businesses. We know they're out there, and we'll find them, and nurture them because we want to work with firms that have the desire to reach for the American Dream.

Dr. Martin Luther King, Jr. said that "Education is more than ever the passport to decent economic positions." Space has the power to excite students about learning like nothing I've ever seen. Learning about geology becomes exciting if you can study rocks from the Moon. Learning about math can mean something if you're calculating the amount of power it takes to get a rocket to Mars.

That's why NASA's education programs reach out to more than 1.8 million students, more than 130,000 teachers across the country. That's why many of these programs are targeted to the segments of our society that are under-represented in science and technology. In Congressman Stokes's home town of Cleveland, for example, the NASA Lewis Research Center has teamed up with teachers and parents to use kids' natural interest in space to improve their learning. I'm going to visit with Congressman Stokes at the Anton Grdina [sic] School next month for a first-hand look.

Two weeks ago, at an educators conference in Florida just prior to Mae Jemison's flight, Congressman Stokes issued two challenges to NASA: to work with other government agencies to increase the number of minorities getting degrees in engineering, science, and math; and to do more to help education in the major cities, where the largest numbers of minority students reside. Those are two challenges that we accept, and I hope you'll invite me back in a year so I can report to you on what we've done.

Dr. Benjamin Mays once said, "The tragedy of life doesn't lie in not reaching your goal. The tragedy lies in having no goal to reach. It is not a disgrace to reach for the stars, but it is a disgrace to have no stars to reach for."

NASA's educational programs lift students' eyes up toward the stars, giving them hope and opportunities they might never have imagined.

Our SHARP program puts minority high school students in NASA labs over a summer to work with our engineers, and other professionals. Our Spacemobile program reached hundreds of thousands of elementary school students, and distributed science and math teaching materials to their teachers. At the university level, we have doubled our research grants and other assistance to Historically Black Colleges and Universities to $20 million over the last eight years.

We do all this, and much more, to improve the education of our young, because you never know which computer program, or which internship will influence a young person to dedicate their life to science or engineering.

Sometimes it's hard, in a period of economic difficulties, to see the practical benefits of investing in space research.

Long ago, President Kennedy said, "Many Americans make the mistake of assuming that space research has no value here on Earth. Nothing could be further from the truth. Our effort in space is not * * * a competitor for the natural resources that we spend to develop the Earth. It is a working partner and co-producer of these resources."

Kennedy realized, despite the hard economic times of the early 60s, that our nation needed investment to keep moving forward.

Yes, we need affordable housing, good health care, excellent schools. But our citizens also need hope and opportunity. Common sense tell us that we can't focus exclusively on the present. We need to make some investments that will pay off in terms of new technology, new knowledge, and new jobs in the future—which is exactly the kind of future NASA represents.

In the thirty years since the dawn of the Space Age, there is hardly a sector of the economy that has been untouched by the space program. Every time an American operates a computer, makes a long distance call, or watches television, they are the beneficiaries of space technology. Every time one receives a CAT scan in a hospital, has arthroscopic or laser surgery, or enters intensive care, they benefit from previous NASA work.

Space-based research on Space Station Freedom will revolutionize our way of life in the 21st century much as Apollo made possible our way of life today.

Today, America invests a little over $14 billion a year in NASA—just one percent of the federal budget. Approximately $2 billion per year of that is for Space Station Freedom. That sounds like a lot—and it is. Yet Americans spend $4.3 billion per year on potato chips and $1.4 billion on popcorn. In simple terms, Space Station Freedom costs each American two cents a day. For that investment, the evidence shows that we will all get more than our two cents worth.

America needs Space Station Freedom so scientists can learn how to protect the health of humans living and working in space in order to permit human exploration of the solar system, and to use this understanding and technology to improve the quality of life for everyone on Earth.

As we approach the year 2000—the dawn of a new century—it's hard to imagine the future without thinking of new achievements in space. There's so much left to learn; so many places yet to go.

And it will be a new NASA that takes up there. A NASA where Hispanic engineering students from the University of New Mexico go on to build Space Station Freedom. A NASA where Asian students at Cal Tech plan a probe to the last unexplored planet: faraway Pluto. A NASA where the first flight surgeon on Space Station Freedom is a Morehouse graduate.

When I moved into the Administrator's office this year, I found a plaque—all covered with dust. On the plaque was the Apollo 11 patch, and the signatures of Neil Armstrong, Buzz Aldrin, and Mile Collins. On the top, it's written, "Carried to the Moon aboard Apollo 11. Presented to the Mars 1 crew."

Somewhere in America last week, an amazing thing happened. I can't tell you exactly where—it might have been East St. Louis, or Houston, or Watts. But somewhere, an African American schoolgirl promised herself that she would be on that first flight to Mars.

At the big press conference before the flight, they'll ask her if she ever dreamed of becoming the first American to go to Mars.

And she'll say, "Yes. My dream started in September, 1992, when I saw Mae Jemison fly in space and I knew that in NASA, no dream was too big—no limit could be placed on what I could accomplish." That is the NASA I want to build. I want you help to do it.

## THE TRANSPORTATION FAIR SHARE ACT OF 1992

### HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. VALENTINE. Mr. Speaker, today, I am introducing legislation to ensure that States do not get shortchanged when it comes to the distribution of Federal transportation dollars. My bill, the Transportation Fair Share Act of 1992, will help guarantee that growing areas of the United States receive their fair share of Federal transportation funds.

As our Nation undergoes dramatic demographic shifts, the population of some regions is growing rapidly. As a result of this rapid growth, decennial census data used in calculating the funding levels for various transportation programs can be inaccurate, especially in the latter years of the decade.

The Transportation Fair Share Act of 1992 will provide for the utilization of the latest available estimates prepared by the Department of Commerce, rather than decennial census data, in the administration of the following transportation programs: The Urban Mass Transit Grant Program, Federal Transit Block grants, the Airport and Airway Improvement Program, and highway safety programs.

## COMMENDING THE AMERICAN AND TEXAS WINE INDUSTRIES

### HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. BARTON of Texas. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to the American wine industry, and in particular the expanding wine industry in Texas.

The American Wine Appreciation Week resolution was spearheaded by Women for Wine Sense, a national group of professional women with chapters across the country, who enjoy wine, believe it has a role in a balanced life and wish to generate dialog about wine and daily life.

American grape growing and wine production continues today as a significant agricultural industry in 40 of our United States and comprises thousands of family-owned farms. Grape growing and wine production provide thousands of jobs, and are important to the U.S. general economy. The industry is a valuable contributor to health, civic, and educational organizations. Wine enhances the pleasure of dining when consumed in moderation, and has fulfilled a valued role in a wide variety of our cultural, religious, and familial traditions.

Messina Hof Wine Cellars in Bryan, TX, a leader in the growing Texas wine industry, is located in my congressional district. Messina Hof's owner and winemaker, Paul V. Bonarrigo, has been a driving force in expanding and developing the industry as the president of the Texas Wine and Grape Growers Association. The Texas wine industry produced over 1 million gallons of wine in 1991, creating an economic impact in Texas of $3 million in jobs and revenue for Texans.

The growth of Messina Hof is a shining example of positive development in the State. Messina Hof's production has grown from 1,500 gallons in 1983 to 50,000 gallons in 1991. Production is expected to reach 100,000 gallons by 1994.

In these difficult times, the ever-expanding wine industry in Texas and the United States is doing its share to help boost our economy. I hope my colleagues will join me in saluting the American wine industry.

## LEAD EXPOSURE

### HON. HARRY A. JOHNSTON II

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. JOHNSTON of Florida. Mr. Speaker, in the 103rd Congress as in many past Congresses, we will be facing difficult policy decisions impacting the environment and public health. One of those issues has recently been debated before the Energy and Commerce Committee of the House of Representatives. This issue is the reduction of lead exposure to children.

While scientific evidence has shown that children's exposure to lead can have adverse health effects, it is important that we move thoughtfully to assure that EPA's policy mistakes with a similar health issue, asbestos-in-buildings, does not repeat itself. While protecting the health of children is always of utmost importance, we need to assure that the regulatory measures we put in place will, in fact, provide that protection.

Our experience with asbestos-in-schools has shown that hastily developing a regulatory program based on emotion and fear, rather than scientific fact, in actuality may have increased asbestos exposure levels through unnecessary asbestos removal. We don't want the same thing to happen with lead.

To underscore this point, I attach a letter from EPA to Chairman JOHN DINGELL regarding the development of H.R. 5730—the Lead Exposure Reduction Act of 1992—in which the Agency acknowledges these problems. Please note the following quotes that exemplify my concerns:

From a July 31, 1992, letter from Assistant Administrator Linda Fisher:

While lead based paint that is in poor condition (e.g., chipping, pealing, flaking, or chalking) can present a hazard and may appropriately be removed or controlled in many instances, removing lead-based paint that is in good condition, apart from posing an unnecessary expense, can actually increase risk of exposure, especially if not carefully and properly conducted. We do not want to repeat the early experience of the asbestos-in-schools program where some schools removed all asbestos from their facilities regardless of its condition at great expense, whole potentially increasing exposure of the children targeted for protection.

From a May 11, 1992, letter from Administrator William K. Reilly:

EPA's asbestos experience convinced the agency that, in addition to improperly conducted abatement activities, we also have to prevent inappropriate abatements.

ENVIRONMENTAL PROTECTION AGENCY,
*Washington, DC, July 31, 1992.*

Hon. JOHN D. DINGELL,
*Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: My staff and I have recently reviewed the July 23, 1992 staff draft of the Lead Exposure Reduction Act, which we understand is scheduled to be marked up soon in the Energy and Commerce Committee. While we certainly support the goal of reducing childhood lead exposure, we have several serious concerns about this bill and oppose the bill as drafted. Some of these concerns were discussed in Administrator Reilly's May 11, 1992 letter to you concerning H.R. 2840, The Lead Contamination Control Act Amendments (enclosed). Our comments are presented for your consideration.

GENERAL CONCERNS

Our major areas of concern involve the bill's lead training and certification approach, mandatory school inspections, amendments to the Safe Drinking Water Act (SDWA), arbitrary lead content restrictions on certain products, and the comprehensive inventory of lead products. Many of these provisions will result in significant costs to businesses and consumers without yielding an appreciable benefit in reducing the health risk from lead exposure.

Furthermore, we continue to have serious concerns about the overall workability of these provisions and their impact on job-creating sectors of the economy and on the availability and quality of services, such as day care. These negatives could far outweigh any potential health benefit that may result from this legislation.

Another general concern is that the bill will impose substantial costs on State and local governments without providing any means to pay for those costs. As you may be aware, the President has expressed his view that no significant burdens be placed on States and localities unless accompanied by commensurate funding, in accordance with the 1990 budget agreement.

In addition, we feel that in several areas of the bill, authorities are shifted away from Agencies, now currently engaged in certain activities, to completely different Agencies for no apparent reason. An example is the shift of the lead training grant program from EPA, where the program has been managed for the last two years, to the National Institute of Environmental Health Sciences (NIEHS). This change, which will require NIEHS to develop new lead training oversight capabilities that are already established at EPA, is not an efficient use of Federal resources.

SECTION 421: LEAD ABATEMENT TRAINING AND CERTIFICATION PROVISIONS

We have concerns with the lead abatement training and certification provisions in Section 421. These provisions require the Federal government to undertake responsibility for licensing various groups including inspectors, contractors and planners, as well as accrediting training programs. We have serious concerns over the potential breadth of any certification program. We believe that

contractors and others who intentionally engage in lead inspections and abatement should be subject to formal certification requirements. However, an attempt to accredit all manner of craftsmen and others involved in building renovation, remodeling or demolition may be neither feasible, given the size and diversity of this work force, nor necessary to protect health. There are several million workers in the housing trade industry, a small percentage of whom may disturb significant amounts of paint containing lead during work activities. Any attempt to certify all workers could divert us away from those workers with greatest need for protection and could needlessly hamper a major job-creating section of the U.S. economy. Instead, an education requirement for these individuals may be more appropriate.

While the Federal government has an important role to play in training and certification, we believe that the States can manage this program more effectively and efficiently than the Federal government, perhaps by building upon existing State-run training and accreditation programs. EPA, in consultation with other Federal agencies such as the Occupational Safety and Health Administration (OSHA) and the National Institute of Occupational Safety and Health (NIOSH), should be responsible for developing model training materials and for setting national accreditation and certification standards. This would include developing a model State plan for training and certification as well as implementing a process for approving State plans. EPA would also appropriately have a role in assisting States to develop and implement programs and providing some oversight to those programs.

In fact, many of the activities mentioned above are already being undertaken. EPA has developed a comprehensive lead training program, based in part at universities across the country, and we are also developing a model accreditation plan for States. The combination of these two programs should help assure that lead inspection and control personnel are both competent and proficient in their job performance.

EPA is coordinating its worker training initiatives with other Federal agencies through the Federal Interagency Lead-Based Paint Task Force. As a result, EPA recognizes that OSHA is considering revising its worker protection standards for lead and that it has issued training grants to address the hazards posed to workers from lead exposure. In addition, NIOSH has worked closely with the Department of Housing and Urban Development (HUD) in the development of worker protection recommendations for HUD's lead-based paint abatement program.

Section 421 also establishes an Advisory Committee on Lead Poisoning. EPA supports the concept of having a broad range of parties involved in program development. However, we feel that the Committee membership as outlined in the bill does not represent the full range of affected parties, including university training organizations. Additonally, the requirements for mandatory meetings and short time allowances for EPA to provide written responses to Committee concerns are overly burdensome. We would support establishing a Committee with broader membership and with less statutory administrative structure.

SECTION 422: MANDATORY LEAD INSPECTION PROGRAM FOR SCHOOLS AND DAY CARE CENTERS

EPA has serious concerns about the impact of the mandatory lead inspection program on the general availability and quality of day care services. While well-intended, the amendment could significantly increase the cost and administrative hurdles associated with smaller, community-based day care services. A much more preferable approach would be a limited pilot program to gauge the need for, and scope of, such a program. These pilot inspections would assess the extent of lead hazards in schools and centers, and the health benefits of various risk reduction methods. This program should be focused on the most vulnerable populations, such as children six years of age or younger who occupy facilities built before 1960, and examine the practical considerations of limited or partial building inspections.

Of special concern are provisions which may create incentives to unnecessarily remove lead-based paint. Section 422, in particular, would exacerbate this problem by encouraging "abatement in lieu of notification." Simple inspection and notification of lead in schools or day care facilities, without an accurate assessment of the risks posed by lead, may lead to unfounded fears and unnecessary or counterproductive lead abatement. While lead-based paint that is in poor condition (e.g., chipping, peeling, flaking, or chalking) can present a hazard and may appropriately be removed or controlled in many instances, removing lead-based paint that is in good condition, apart from posing an unnecessary expense, can actually increase risk of exposure, especially if not carefully and properly conducted. We do not want to repeat the early experience of the asbestos-in-schools program where some schools removed all asbestos from their facilities regardless of its condition, at great expense, while potentially increasing exposure of the children targeted for protection. We would prefer that schools be able to consider all appropriate management and abatement options for lead paint, rather than only removal or encampsulation, if this step is explicitly offered in lieu of notification.

SECTION 4: AMENDMENTS TO THE SAFE DRINKING WATER ACT

We oppose the bill's amendments to the SDWA which would revise the drinking water testing requirements for schools. While schools are currently encouraged to participate in an existing voluntary program, a mandatory requirement for drinking water testing within a limited period of time (less than several years) may not be practical, especially given the increased costs which schools would have to bear. More importantly, implementation of any new requirements for remedial steps to be taken below EPA's 20 parts per billion (ppb) action level is currently beyond proven field technology for isolating the cause of the contamination. Additionally, it is important that EPA's current sampling protocols be utilized to assure that accurate levels of lead can be reliably determined and reported.

We have concerns with respect to the bill's other amendments to the SDWA. First, the bill requires manufacturers to repair or replace all coolers identified by the Commission as contributing 20 ppb or more of lead to drinking water. Assigning retroactive liability in this manner creates a dangerous precedent to manufacturers of all goods, thereby stifling development of new and safer products. Given the scope of this recall and the number of coolers built before 1988, this provision would be very expensive. In addition, it is inappropriate to institute a national recall or certain models based in part on laboratory evidence when lead levels vary considerably depending on use, corrosivity of local water and age of cooler. Risks are best assessed at the local, not national, level.

EPA further opposes the provision in the SDWA amendment which outlines "hammer" requirements that are to prevail if the Agency does not promulgate, within specified periods after enactment, regulations establishing minimal leaching levels of lead from new plumbing fittings conveying drinking water. This provision is ineffective because it mandates a maximum percentage of lead content in fittings which is essentially unrelated to leachability of lead into drinking water.

SECTIONS 411 AND 414: OTHER REGULATION OF LEAD-CONTAINING PRODUCTS

Section 411 of the bill restricts continuing uses of certain lead-containing products. While we support the concept of pollution prevention as an environmental management tool, placing an arbitrary cap on the allowable level of lead in certain products is not a sound scientific approach. More complete information about the expected risks from the use of these products and the economic impacts of restricting lead use are necessary in order to determine whether the lead in these products presents an unreasonable risk to human health or the environment.

Section 414 of the bill would require EPA to develop a comprehensive inventory of lead-containing products. EPA is already in the process of completing a survey of current lead uses. This information, which will be published for public comment by the end of this year, will serve as the basis for our actions under the Toxic Substances Control Act (TSCA) to control any new uses of lead resulting in unacceptable exposures. Frankly, we fear any new inventory provision, even one which eliminates the need for direct industry reporting, could interfere with the EPA process already underway by diverting our current resources.

Finally, EPA is concerned that the bill would require shifting resources from priority activities and programs to comply with less critical mandates of a new law. While we do agree with the pollution prevention goals of this bill, an inordinate amount of resources would be lost from current federal action addressing the largest exposure sources (lead-based paint, dust, soil and drinking water) to accommodate the requirements or the new legislation. The draft bill, for example, could require nearly 20 new rule making efforts to control various lead products. We strongly feel that EPA already has sufficient authority to deal with current and future uses of lead which may present unreasonable risks.

I trust that those comments are useful to you and your staff. If you have any questions about these comments, please contact me.

The Office of Management and Budget has advised that it has no objections to the presentation of these views from the standpoint of the President's program.

Sincerely yours,

LINDA J. FISHER,
*Assistant Administrator.*

## AN AMERICAN TEACHER'S EXPERIENCE OF ANTI-SEMITISM IN POLAND

HON. TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. LANTOS. Mr. Speaker, this summer, I was fortunate to have as an employee in my

Washington office a talented young woman by the name of Jennifer Bloomfield. Currently an aspiring playwright studying for her master's degree at Carnegie Mellon University, Jennifer spent a year in Poland as an English language instructor during the 1991–92 academic year.

At a time of dramatic transition in that country, Jennifer experienced and observed at first hand the attitude of Poles toward Jews. At my request, she wrote an account of her experience.

Mr. Speaker, I ask that her work be placed in today's RECORD. Her observations are particularly insightful, and they deserve serious consideration in light of the unfortunate revival of anti-Semitism, racism, and neofascism in Western Europe as well as Central and Eastern Europe during the past year.

ANTI-SEMITISM WITHOUT JEWS,
CONTEMPORARY POLAND

Generalizations are dangerous, and they shouldn't be made about any group—be it Jews or Poles. Many Jews simply assume all Poles hate Jews. One student told me that when visiting the United States she was immediately rejected by an American Jew she met because of that assumption. I encountered the same kind of thinking before I left to spend a year teaching in Poland.

What follows are my impressions of the feeling toward Jews in Poland. It is based on those I met and on incidents I read and heard about.

The memory of Polish complicity in the extermination of European Jewry has not faded, and Poland's reputation for anti-Semitism continues.

That reputation is not completely unfounded. It has been kept alive not only by memories of the Holocaust, but also by how those memories are recalled in the national psyche. Until just a few years ago, one could visit Auschwitz concentration camp and find no mention of a single Jew.

Poles are required to visit the camp as students. They go on field trips to this national memorial, but because of the Soviets, communism and prejudice they do not learn about the Jews who died there.

The Soviets had a need to portray the war as a fight against fascism and the outcome of the war as a victory of communism over fascism. Their aim was to help legitimize their takeover of Poland, and to make people more sympathetic, grateful, and welcoming to communists. Soviet and Polish anti-Semitism no doubt also played a significant role in the decision to disregard prejudice against groups such as Jews, Gypsies and homosexuals as having played any role at all in German aggression, much less the crucial role it did play.

So, for instance, the new pamphlet guide for visitors begins by listing all the nationalities that died at Auschwitz at the hands of the fascists, belatedly mentioning Jews and racial prejudice on the second page.

The displays themselves never mention Jews. They refer to "the people from the Warsaw ghetto" and the many nationalities who were rounded up from all over Europe, but the word Jew seems to be taboo. There are huge rooms, one full of hair, one of spectacles, another of suitcases. The ubiquitous Jewish names inscribed on the suitcases reveal the untold story.

The story a visitor learns about Auschwitz depends greatly on the guide who tells it. Many see the camp without a guide; they get the story told above. My guide was a Pole who had lived near Auschwitz as a child and was evacuated at some point during the war. He was very even-handed in his presentation. Poles suffered, Jews suffered. Poles were there to be slaves, Jews to be annihilated. Friends who visited the camp at other times told me their guides largely or completely ignored Jewish suffering.

It is not only at the camps that the facts of the Holocaust are misrepresented. Polish friends told me that their history classes were equally biased and that they learned nothing of the gross numbers of Jews who were successfully targeted by the Nazis for extermination until they had read extensively on their own, usually books that had been banned by the Polish government.

The Communists disseminated countless lies through the Polish educational system, from misrepresenting the facts to a wholesale rewriting of history. Materials contradicting the official version were banned, but apparently many were still able to attain them during Soviet domination and once the Communists were thrown out, these materials flooded Poland.

Poles feel that Jews try to portray the atrocities of World War II as a solely Jewish suffering—and Jews feel that Poles try to appropriate the war. It is a disgusting contest of numbers.

Compounding the tension is the willing complicity of Poles with the Nazis in exterminating Jews. Poles would not even allow Jews to fight in the resistance armies during the war. Numerous Poles did save Jews, however, a fact that should not be overlooked either.

For Poles, the association of Jews with their communist oppressors builds the tension. Many Jews were supporters of the communists, both during the Soviet Revolution and in bringing communism to Poland.

There were prominent Jews in the party apparatus in Poland until its demise. Most prominent was the hated Urban, a die-hard communist until the very end who apparently was involved in imposing martial law and other stranglehold measures. He remains prominent today, as the editor and publisher of the controversial, detested and wildly popular opposition newspaper Nie (meaning "No"). He is considered to be the quintessential Jew. (I don't know if Urban considers himself to be a Jew or not; that distinction makes little difference in Poland.)

However, the association of Jews and Poland's communist oppressors reaches far beyond reality into the realms of conspiracy theories, scapegoating and paranoia.

For me, the most shocking portrayal of anti-semitism surfaced during the political campaign. It wasn't passive like the whispered rumors or the neglect of the educational system. These are equally potent weapons, but effortless and riskless to perpetrate. The hatred and fear exhibited during the campaign was bold and forthright.

One party's campaign poster said of one candidate (in Polish) "Mazowiecki Get Out." Individual letters were highlighted to spell "Jew" (also in Polish). These were posted all over the city.

Mazowiecki (pronounced Mazovyetski) is the leader of the popular Democratic Union (or Unia) Party, a liberal-progressive splinter group of solidarity. there have been allegations that one of Mazowiecki's ancestors was a Jew. He vehemently denies it. (But does he condemn the charges themselves?)

Meanwhile the Christian National Union chose a different venue for its intolerance. Churchgoers in the city of Gorzow heard the message loud and clear from their priest during mass; "Catholics should vote for Catholics, Christians for Christians, Muslims for Muslims, Jews for Jews, freemasons for freemasons and communists for communists" (Warsaw Voice, November 24, 1991). In a country that is predominantly Catholic and in the midst of a strong Catholic revival this slogan means only one thing: the Nazi cry Raus Auslander—Foreigners Get Out.

The Episcopate became involved as well, distributing letters the Sunday before elections with instructions on which parties to vote for. They encouraged voters to support those opposed to abortion, euthanasia and foremost, the separation of church and state.

Many parties stressed their connection to the Catholic church and Christian values. The historic slogan "A real Pole is a Catholic" because a rallying cry for many parties.

Lech Walesa (pronounced Vawensa) engaged in some of this rhetoric as well with the slogan, "Poland for Poles." He soon apologized and retracted his statement.

The fear of other nations and nationalities, especially the Jews, Germany, and the former Soviet Union (or more generally, communism) played a central role in numerous campaigns. They stressed "real Polishness" and infiltration plots.

Two radical nationalist parties came up with a paranoid plot reminiscent of the Elders of Zion. According to their complicated conspiracy theory, Jews first destroyed Poles through communism. Then these same Jews delegated other Jews to form an opposition party, and came to power as Solidarity.

According to the Polish National Community, "a Judaized Episcopate is sending chaplains of Jewish nationality to the officers' corps in the Polish Army" (Warsaw Voice, November 24, 1991).

Stan Tyminski, leader of Party X, and Walesa's rival in the election, left a small box with a newspaper when he left the country. Inscribed with the inscription "The Final Word," the box contained a recorder that played the message, " F--- Jew! F--- Jew! F--- you! F--- you! (Warsaw Voice, November 24, 1991).

There is no doubt anti-semitism reared its head in a tremendous way during the elections, but let me put the above examples in perspective. Stan Tyminski and the Party X lost overwhelmingly to Walesa—I believe by more than 90%. Two factors contributed to his defeat.

First, the run-off between Tyminski and Walesa came after a three way run between Tyminski, Walesa, and Mazowiecki. Mazowiecki and Walesa lead the two largest splinter groups of Solidarity. Mazowiecki is the favorite of the intellectuals, but is extremely uncharismatic and fails to inspire the remainder of the population. The three-way race was much closer—no candidate had a majority—and Tyminski and Walesa prevailed.

In the run-off, all of Mazowiecki's supporters voted for Walesa, if they voted at all. This was because of Tyminski's platform of hate and complete public disdain for him as a person and a politician.

The second reason Walesa won so overwhelmingly is Tyminski's nationality. He is a citizen of Canada who returned to his native Poland to take part in the new government.

In the parliamentary elections, the communists and the Democratic Union each won more seats than any other group. Neither ran on a platform of hate and fear of outsiders. The Polish National Community (of the conspiracy theory above) failed to win a single seat.

The elections reflect what I witnessed in my classes and among Polish friends.

In my weekend class (third year university students returning after some time away from school, mostly young mothers) one student told me that the highest form of insult in Poland was to call someone a Jew. But, she maintained, this was not anti-Semitism or in any way related to American racism. She was angrily confronted by two other students who not only disagreed, but were deeply embarrassed by her comment.

I heard this insult during my stay in Poland, but from a British colleague, not a Pole. I don't know whether he picked it up in Poland and found it salient, or his is a homegrown idea, but clearly anti-semitism needs neither Jews nor Poles, and neither does open-mindedness.

Another woman told me that though it was a bit difficult for her parents to accept that she was marrying a German, "If he were a Jew, forget it!" She added, "Better whole German than ¼ a Jew," which is saying a lot, because while blatant anti-Semitism is generally not condoned on the surface (at least among my students and colleagues at the university) a certain amount of anti-German feeling is.

The conversation went something like this:

"I said to Deiter, Deiter, if you were a Jew, my father would never have accepted you. You are German, and yes, that's difficult for a Polish father to accept, but if you were a Jew, or a Ukranian, forget it. Even ¼ a Jew. Even though it was the Germans who literally kicked his ass for 4 years making him work for free, for a bowl of soup, it is worse to be a Jew. He points them out on t.v. They have a slight accent or a look."

"'Daddy, did they ever hurt you?' I asked him."

"'No.'"

"Then why?"

"'You should have seen them in Warsaw before the war. They dominated everything—they owned all the shops.'"

"'Well, Daddy, maybe they were better at it than the Poles.' I said to him, 'So why shouldn't they own everything? That is capitalism.'"

"'Harrumph.'"

"'But Daddy, there are no Jews in Poland now. Very few. They do not own all the shops. Why do you hate them now?'"

"'You should have seen them before war.'"

The issue of Jewish economic domination before the war surfaced often. Many people cited their parents' or grandparents' resentment of Jewish shop owners and in that manner explained why Poland's complicity in Jewish annihilation was "understandable."

Just how much did Jews dominate the marketplace before the war? One day a very nasty argument broke out in class. One student was saying how her grandmother had told her the Jews owned everything before the war. Then another cut her off—No, he said, they didn't. They went back and forth, her grandmother's word against his.

Certainly it seems that Jews owned businesses in larger proportions than their size would indicate. But that they dominated—or "owned everything"—is simply ridiculous. Sheer numbers would not allow this. In addition, Jews by no means enjoyed the equal rights and equal status with Poles that would allow them to compete on the same level. Some Jews were prominent in society, but the most prominent, the most wealthy and the most influential sectors of society were certainly Polish. This racist misconception stems from a resentment of members of the ethnic group—"them"—in positions of prominence and the assumption that members of the majority—"us"—belong there.

I saw anti-Semitic graffiti scrawled on walls, in synagogues and in cemeteries. One student tried to claim that the Jewish star hanging from gallows that I had seen drawn in the Old Garrison Cemetery in Poznan was not anti-Semitic at all, but the absent minded doodling of some bored teenager for whom it had no meanings.

In Krakow, one of the synagogues in the old Jewish sector was vandalized and thugs were hanging around outside. I didn't stop to ask why. We were told that the synagogue has to be washed and painted constantly to erase the hateful scrawls.

I read account after account of Jewish cemeteries being desecrated, particularly in Warsaw.

For the first time in history, the Polish government is taking steps against anti-Semitism. Last August Walesa's government took strong and immediate action when young vandals once again struck Warsaw's Jewish Cemetery. The government sent in armed guards, took part in a commemorative ceremoney at the site of the vandalism, and promptly charged and arrested suspects.

In a recent visit Pope John Paul II also urged his compatriots not to forget the mass extermination of Jews at Auschwitz, nor the Jews that used to live among them.

The Pope's comments are quite significant in this country that is predominantly Catholic and in the midst of a strong religious revival after decades of communist rule. But the word of the Catholic church does not always encourage tolerance or acceptance of Jews, as the elections illustrate. Furthermore, the predominance of one religion and one race in Poland compounds intolerance rather than abates it.

The concept of fighting discrimination based on difference is difficult to relay in this homogeneous society.

I had my class read an account of one obese woman's experiences with discrimination in the U.S., "Equal Rights for Fat People." She was turned down for jobs because of her appearance, unable to use public facilities and was the object of heckling and nasty slurs. The students thought the article absurd.

Though some had more sympathy for her than others, they all agreed that she should simply lose weight and be like everyone else.

The attitude was, "Why is she complaining? She chooses to be different, she is going to suffer the consequences."

The students refused to link discrimination based on weight to anti-Semitism or racism—both hot issues they have heard a lot about. However, the discussion did extend well beyond obesity to other forms of prejudice.

One student explained nastily, "There's nothing you can do about it. You can't tell people how to think. If someone doesn't want to hire a Jew, they are not going to hire a Jew. They just say someone else has better qualifications. Too bad."

What about the Civil Rights Act in the U.S, I asked?

"Useless."

Another student disagreed, "We can't discriminate against people who are different because there are too many of them. If we discriminated against all the Jews, Gypsies and handicapped that would be half the population."

Someone else in that class later said, "There can't be anti-Semitism in Poland because there are barely any Jews. We are too homogeneous for there to be discrimination against any group."

Both comments brought general agreement. They seemed to have fear that Jews were going to take over, while at the same time they felt Jews were too insignificant for "special laws" to assure their civil rights.

The contradiction escaped them, as did the moral issue that discrimination based on ethnic or religious difference is just plain wrong.

No one I met in Poland, mostly students and teachers, the oldest of whom were children during World War II, would ever publicly profess anti-Jewish sentiments. Among them there is widespread shame over the events of the Holocaust, and I believe that the majority of post-war Poles reject anti-Semitism as a theory.

Without a doubt, anti-Semitism in Poland lives, without Jews. But negative feelings toward Jews are more subtle and more complex than in the past. Poland has taken the first steps away from the hatred and prejudice that marks its past. It also has a long way to go.

What can we do to help Poland continue on the right path and become a nation that will not tolerate prejudice?

First, we must continue to monitor public expressions of anti-Semitism and other intolerance such as was displayed during the 1991 elections. Letters from the U.S. Congress will go a long way in eradicating governmental expression and condonement of anti-Semitism. Walesa's retraction of his nationalist slogan "Poland for the Poles" exemplifies the power of western opinion.

Next, we cannot support a government that in effect supports anti-Semitism. We must make it clear that as long as Poland fails to punish those who desecrate cemeteries, draw gallows with Jewish stars hanging from them or otherwise carry out crimes of hate, the U.S. will take notice and action. Fortunately, Poland has been changing its policy of ignorance concerning anti-Semitic crimes.

Finally and most importantly, we must target the educational system. If students never learn of the crimes against Jews and the culpability of Poland they will never understand what drives anti-Semitism or the horrible consequences ethnic, religious and racial prejudice can have. We must urge the Polish government to teach the whole truth about the Holocaust in schools and at national memorials such as Auschwitz Concentration Camp.

## CELEBRATING THE COMMITMENT OF C. RICHARD BEYDA TO OUR CHILDREN

### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. HOYER. Mr. Speaker, I would like to take this opportunity to recognize the accomplishments of an outstanding individual who has done an extraordinary job of working for the health and well-being of children in the Washington area and in the United States.

In December of this year, C. Richard Beyda will conclude 4 years of service as Chairman of the board of Children's National Medical Center. Dick began his formal association with Children's in 1984, when he joined the corporate board. In 1985, he joined the board of directors. Since then, he has demonstrated an exceptional leadership commitment in guiding

the growth and development of Children's to *its present status as one of the premiere pediatric health facilities in America.*

Dick Beyda was born in Washington, DC and resides here today with his family. He is a graduate of the George Washington University School of Law. As an accountant and a lawyer, he is a well known and respected member of the business and legal communities. He is a member of the DC Bar Association and the DC Institute of Certified Public Accountants.

Mr. Speaker, health care is one of the most critical issues facing the Congress and the American people today. Our responses to this situation is perhaps most important when it comes to children. The health care of our children is an investment that we as a Nation must make, because it is our children who will determine the future course of our Nation and our world. Because of the wisdom and foresight of Dick Beyda and the leadership team at Children's, they have developed a strategic approach to their long-range goals, while managing the short-term issues that are facing virtually all health care organizations. As a result, the children and families of the Washington Metropolitan region have a resource to which they can turn.

Dick Beyda's accomplishments at Children's Hospital are numerous. He oversaw the planning and implementation of a corporate restructuring that enabled the hospital to function more effectively in a time of diminishing resources. Under his leadership, the hospital created a task force to examine the issues that would face the health care industry in general, and Children's Hospital in particular in the year 2000. In 1989, this group produced the "Vision for the Year 2000" report which outlined the challenges—rapidly advancing medical technologies, nursing shortages, greater complexity of patient care delivery, increased operations costs, and decreasing reimbursements—surfaced and the hospital staff began to effectively address them with the strategies put forth in this report. the strategies put forth in this report.

A second achievement was the expansion of Children's basic and clinical research capabilities. Biomedical research has always been an integral part of the hospital's mission. And, indeed, quality health care for all Americans rests upon the foundation of research investigations to uncover new methods of preventing and treating disease and injury. During Dick Beyda's tenure as chairman, the hospital established the Children's Research Institute, which houses six research centers. Each of these centers is investigating the cause, treatment, and prevention of the diseases of infancy, childhood, and adolescence. Because of its location within the hospital facility, the Research Institute will promote the communication and collaboration between physicians and scientists that is so vital to research progress. This will provide improved patient care, by posing new questions which can be addressed in the research laboratories.

Another notable accomplishment was the expansion and enhancement of the main hospital facility. Under Dick's leadership, a threefold plan was completed: expansion of the hospital's underground parking garage, the construction of an administrative wing, and the relocation of the hospital's helipad from the east lawn to the roof. But, these physical changes are not significant in and of themselves; they are significant because they symbolize the commitment of Children's Hospital to continued growth and development of its clinical, research, education, and advocacy efforts into the 21st century and beyond.

In the mid-1980's, Dick played a leading role in getting the hospital's first helipad built on the east lawn of the hospital. Children's was then building its trauma service, which has since become a model for children's hospitals across the country. In order to get young patients to the hospital in that "golden hour" following a severe injury, it was vital that Children's have the capability of receiving patients by helicopter. Dick and other board members went to the community, making the case and raising the money for that first helipad. The tangible results of this effort are hundreds of children who are alive today as a result of the prompt and quality emergency care they received at Children's. The first year that the helipad was open, 320 children arrived by helicopter. This year, that number has more than doubled, with more than 700 youngsters arriving by air transport.

Two years ago, at the dedication of the new rooftop helipad, Dick spoke of the construction of that first helipad. He also eloquently expressed his philosophy and motivation for his involvement with Children's Hospital. On that occasion, he talked about his commitment, and the commitment of the entire Children's Hospital team, to the health and safety of the children that we all hold so dear. Dick likened the hospital's red helicopter beacon, which is one of the highest, brightest lights in the Washington skyline, to the eternal light of the Jewish faith. That light, he said, shining steadfastly in the rain, snow, or clear, starlit sky, was a symbol of everything Children's Hospital stands for—a place for sick and injured children and their families to come and know that they are going to be loved and cared for in a manner that is as good as, if not better than, any other place in the country.

Mr. Speaker, Children's Hospital is very important to me and to my constituents. Almost 50 percent of the patients treated at Children's come from my home State of Maryland. Children's is an integral part of the health care delivery system for Maryland families. The hospital provides services that span the entire health care spectrum, from simple tonsillectomies and ear tube surgeries to the multidisciplinary management of chronic diseases to the complex treatment of life-threatening injuries and illnesses.

Dick is a man who cares deeply about the well-being of children. As the parents of three daughters, he and his wife, Suanne, know first-hand how much children need expert pediatric specialty care. As chairman of the board of directors, he has extended his knowledge and concern to include the larger community, enabling the hospital to continue to provide this care to many thousands of children in our region.

In conclusion, Mr. Speaker, I would like to applaud Dick Beyda for his hard work and devotion. I would also like to ask my colleagues to join with me in saluting him for accomplishments as chairman of the board of Children's National Medical Center. Although he is stepping down as chairman, I know that Dick will continue this exceptional commitment to the children and families of the Washington area, helping to ensure their health and well-being for many years to come.

## TRIBUTE TO HERBERT BALISH

### HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Ms. MOLINARI. Mr. Speaker, on the evening of Wednesday, November 11, 1992, a very special event will take place. There will be a reception honoring a very special person, the recently retired principal of Tottenville High School on Staten Island, Mr. Herbert Balish.

Herb Balish has been active and devoted to education all of his life. After graduating from City College in New York in 1940, he passed his teacher-in-training test. But instead of following this endeavor, he joined the U.S. Army and served in the Southwest Pacific from September 1942 to November 1945.

After his discharge in 1945, Herb returned to education and became a teacher. He took an active role in the lives of his students by being a yearbook and grade advisor, as well as with his colleagues through his involvement with the New York City Association of Teachers of English.

Throughout his career, Herb took an interest in coordinating special programs to assist the students. For instance he organized the XG–Core programs for at-risk students, as well as the college-bound, Core Curriculum Program. He also found the time to author various educational works such as "English for Modern Life," a major English arts book, various handbooks on grammar, and an extensive reading-writing series for urban youth called "The Way It Is," which was distributed on a nation-wide basis.

After passing the principals' examination in 1970, Herb was appointed principal of Port Richmond High School on Staten Island. This school had been the scene of racial difficulties and riots in 1969 and 1970, but when Herb came on board, he worked with all members of the school and local community, and helped turn things around.

In 1978, he was selected to lead the Staten Island Rezoning Task Force to study and rezone Staten Island's high schools. After working on this project for 2 years, Herb's proposals were accepted in full by the parents, the city, the board of education, and the chancellor. Then in 1982, Herb was chosen out of 120 other principals to conduct the principal as Curriculum Leader Program. Working with major New York universities and the business community, Herb drafted a training program which continued for many years. In 1984, he was appointed administrative assistant superintendent, serving as the coordinator of the Principal Curriculum Leader Program.

Then in 1985, Tottenville High School had the good fortune to have Herb Balish assigned to their school. In the 7 years that Herb was at Tottenville, he worked with the school community to enhance the process of shared deci-

sionmaking, as well as implementing the process of teacher involvement and empowerment. Tottenville has been recognized as one of the best and largest comprehensive high schools, not only in the city, but in the country, because of Herb's efforts. During his time at Tottenville, he helped to expand the humanities, emphasize math and science, and protect the various occupational programs. Evidence of his success at Tottenville occurred in 1987, when the school won both State and national recognition.

Mr. Speaker, it is a privilege for me to have this opportunity to honor Herb Balish for his distinguished career and his commitment to our community. His wife, Faith, and their three children I'm sure are very proud of him. He has been a source of great inspiration to the Tottenville High School community, and will be sorely missed.

## NEIGHBORHOOD DEVELOPMENT DEMONSTRATION PROGRAM

### HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. RIDGE. Mr. Speaker, today I am introducing a bill to update and improve the Neighborhood Development Demonstration Program [NDDP]. The NDDP is a matching program under which HUD matches funds raised by neighborhood organizations to support local development activities—in particular, job creation and business development.

The late Senator John Heinz originally sponsored this program. My bill, the Heinz Act, renames it in his honor, as the John Heinz Neighborhood Demonstration Program. The Heinz Act provides new incentives for neighborhood organizations to coordinate with depository institutions.

The Heinz Act maintains the current focus of the NDDP by promoting self-sufficiency among neighborhood organizations. It improves on the existing law by encouraging them to build lines of communication with local financial institutions. In this regard it is consistent with, and supportive of, the greenlining bill that we passed as part of the FDICIA, which provides corresponding incentives for banks to invest in troubled and distressed communities.

The Heinz Act is an effort to weave together the complementary talents of banks and neighborhood organizations. Neighborhood organizations have shown that they can do a great deal to improve the economic climate in lower income communities. They can provide help in many forms to potential borrowers; borrowers that take advantage of their help present a better risk profile to lenders, and become more bankable. At the same time, forward-looking banks have proven that they can operate successfully in distressed areas. They can offer the credit and other services that are needed to establish a sound economic foundation for the local communities.

I believe it is vital that neighborhood organizations on one hand, and banks on the other, each come to appreciate what the other can bring to the table. My legislation is an attempt to foster an atmosphere of cooperation between the two sides. My working together, rather than independently on separate tracks, they can reinforce each other's efforts to promote the growth of local business enterprises, and to increase the prosperity of the communities they serve.

## PRESIDENT BUSH'S ETHANOL DECISION GOOD FOR AMERICA

### HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. EWING. Mr. Speaker, yesterday President Bush completed that rarest of all feats, the triple play. The President's decision to assure ethanol's participation in the reformulated fuels program of the Clean Air Act will help America's farmers, benefit the nation's environment, and enhance America's energy security. Farmers in the Midwest greatly appreciate President Bush's decision and we applaud his strong leadership on agricultural issues.

There's no way to overstate the importance of this issue to my part of the country. American agriculture must move toward providing value-added products such as ethanol if farming is to be a profitable enterprise into the next century. Yesterday's decision will enable farmers, who have long prided themselves on their ability to feed the world, to now participate in the cleanup of our environment. It also lends further support to the President's goal of making America more energy-independent by expanding the use of domestically produced, renewable fuel sources.

I applaud the President for his courage and resourcefulness in resolving this difficult issue. Yesterday was not only a good day for American farmers. It was a good day for all of America.

## A PROMISE FINALLY KEPT

### HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. BLAZ. Mr. Speaker, one of the lingering disappointments among distinguished warriors of World War II will shortly be coming to an end. In a few days from now, my home District, Guam, an American Territory which was liberated from hostile occupation almost 50 years ago, will be welcoming over 100 Filipinos who fought side-by-side with Gen. Douglas MacArthur and the U.S. Armed Forces during World War II. On October 15, 1992, these gallant warriors will finally receive what was promised to them almost half a century ago—U.S. citizenship.

The history of American involvement in protecting and preserving freedom and democracy during World War II is replete with accounts of the battlefield exploits of these Filipino veterans, who fought against enormous odds and under miserable and demeaning conditions. After a gallant struggle against a foe holding overwhelming superiority in firepower, equipment and sheer numbers, these valiant men were finally subdued. Those not killed were subjected to inhumane conditions as prisoners of war.

Sadly, through a series of administrative oversights, bureaucratic blunders and prolonged litigation, the promise of U.S. citizenship became an ephemeral vision for almost 50 years. It was not until the Immigration Act of 1990 that our country finally fulfilled the promise it made decades ago.

Over the years, it must have been especially difficult for these men to see thousands upon thousands of people, from their own country and from other nations in the region, admitted to the United States ahead of them. While these other immigrants can claim citizenship through family relations, business investment, professional and scientific credentials or political upheavals in their own countries, the Filipino veterans alone can claim U.S. citizenship based on a promise made on the battlefield in recognition of their heroism side-by-side with the U.S. Armed Forces. Yet, that official promise, which one would think would give them priority, considering the circumstances under which it was made, turned out to be a hollow one for decades.

Looking back at those lost years, there is no way of ascertaining what might have happened to the lives of these men and their families if they had been made U.S. citizens immediately after World War II.

Now in their twilight years, many of these warriors have become too feeble, too sick or too impoverished to withstand even a plane ride to claim the prize which should have rightfully been bestowed long ago. They have seen many of their comrades, who were able to survive the bullets, bombs, starvation and other privations of the war, succumb to the passage of the intervening years.

The feelings of those veterans who could not make the trip may have been captured by one who said to me:

> While I will be unable to go abroad with my brothers, I am comforted to some degree by knowing that, if I had had the means or the strength, I, too, could have been a citizen of the United States.

Remarkably, despite the decades of humiliation, frustration and rejection, becoming an American citizen remains a premier symbol of ultimate freedom for these soldiers.

As a soldier myself, and as a son of the Pacific like these Filipino veterans, I am honored to enter into the RECORD of the Congress of the United States this tribute in memory of their contributions in behalf of freedom and an honor roll of names of those individuals being sworn-in as U.S. citizens on October 15, 1992.

It is the most that I can offer them in salute; it is the least they deserve.

LIST OF FILIPINO VETERANS

Simplicio R. Acula, Juan A. Adanzo, Ramon O. Adorable, Alfonso Agancillo, Leon A. Agda, Miguel F. Aguilar, Leoncio C. Alcantara, Felipe B. Argueza, Francisco O. Aviles;

Alejandro M. Bautista, Rodolfo L. Bauzon, Loecadio H. Bay, Guillermo Biton, Antonio B. Blones, Bonifacio C. Bonifacio, Teofilo B. Bulcsan;

Sustines Cabo de Leon, Jose Villegas Canaban, Agustin C. Cardos, Eldefonso M. Carranza, Guillermo A. Cervantes, Gavino G. Colocado, Otoniel D. Cotejo, Antonio C. Cruz, Laurencio V. Cruz, Raul C. Cumanan;

Dionisio A. Dacayo, Felicisimo T. Dadia, Crescencio E. Dagala, Nicasi Degollado, Sustines Deleon, Panfilo A. de Guzman, Alfredo V. de Jesus, Juan P. de Vera, Aurelio C. Dela Cruz, Sixto Dela Cruz, Jacinto DeLos Reyes, Mauro Duatin;

Gerardo Delos Reyes Eclevia, Francisco R. Eslava, Victor Dela Rosa Espinosa, Elpidio L. Estuita;

Erequiel S. Faelnar, Aniceto S. Florendo, Sebastian C. Flores;

Jose V. Granaban, Armando Ganutice, Eduardo C. Garcia, Neciforo Garcia, Vicente M. Garin, Francisco R. Gongora, Gavino Gonzales, Hermogenes S. Guanga;

Juan Leonida Hidalgo;

Marciano C. Iglasius, Macario H. Illustrisimo, Ponciano Inopiquez, Teodoro C. Isorena;

Mercado Tan Justiniano;

Filipe H. Ladda, Antonio L. Lasmarias, Mario B. Libano, Ernesto P. Luberto;

Pablo E. Mabanglo, Serapio M. Madriaya, Abraham I. Malaya, David A. Mallorga, Nicolas D. Marcelo, Feliciano Maye, Leonardo A. Mayuga, Malchor F. Mejia, Pedro A. Mendoza, Saloman F. Mera, Olimpio P. Metiam, Rosendo L. Moldez, Solomon E. Montejo, Jose S. Morcon;

Olimpio G. Nacpil, Leonardo Narzabal, Custodio Nator, Ambrocio Navilla, Prudencio E. Nilo, Santos D. Nillo;

Camilo D. Olivar;

Lorenzo S. Pajares, Amador Pambid, Casiano F. Pamilara, Estelito B. Papa, Abundio G. Pechon, Simeon Penaranda, Roberto S. Pineda;

Florentino D. Quirimit;

Pedro N. Resurreccion, Julian Reyes, Melanio R. Reyes, Ricardo J. Reyes, Jose R. Rito, Laureano N. Rivera, Maximo M. Roque, Amado R. Roxas, Deogracias C. Rueda;

Ignacio B. Sab, Francisco Salindong, Felipe A. Samonte, Reynaldo R. Sanvicente, Gregorio C. Senenso, Melecio T. Siapno, Honorio C. Suemith, Leopoldo L. Supe;

Onofre M. Tablizo, Antonio S. Tallan, Lino A. Tatanes, Rito Tejado, Pablo C. Tomines, Nemesio A. Torres, Candelario R. Tuliao;

Jose T. Valera, Domingo Valdez, Santos C. Valdez, Bienvenido M. Valico, Armando T. Vasquez, Felicisimo A. Vibas, Eusebio C. Villaflor, Rodrigo J. Villanueva;

Hilario I. Yamon; and

Paterno Zabala, Godofredo C. Zamubio, Maximiano U. Zarsuelo, Jr.

## SALUTING HUDSON POST #184, THE AMERICAN LEGION

### HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. SOLOMON. Mr. Speaker, on Saturday, November 7, American Legion Post #184 in Hudson, NY, will hold a dinner in commemoration of the single most important event of the 20th century, World War II.

Mr. Speaker, I hardly need tell this body how much I admire the American Legion, both the national organization and the many local posts I've had the privilege to know or belong to.

These days, it's easy to forget the mobilization of an entire society that characterized World War II. Great sacrifices, including the ultimate sacrifice of death in many far-flung battle zones, were made by countless Americans. Yet, most Americans who lived through World War II still remember it as the most exciting part of their lives.

However individual Americans remember the war years, everyone got on with their lives and helped make America the undisputed leader of the free world.

Mr. Speaker, the years before 1941 were a prelude, and the years after 1945 were an epilog, to World War II. And that is why I would ask all Members to join me in saluting Hudson Post #184, the American Legion, for preserving the memory of this extraordinary event in our history.

## WELFARE SHOULD EXIST TO CREATE SELF SUFFICIENCY AND INDEPENDENCE

### HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. NEAL of North Carolina. Mr. Speaker, our welfare system is in desperate need of reform. Programs designed to provide temporary assistance to people in need have become a way of life for all too many of our Nation's poor. In many instances, the regulations governing these programs create obstacles for individuals and families trying to work their way out of poverty.

Today I am introducing legislation that could lead to a complete overhaul of our country's welfare programs.

My bill would establish a system designed to promote self sufficiency for welfare recipients within a reasonable period of time. The goal would be to eliminate duplication, red tape and counterproductive restrictions in welfare programs.

My plan would have a cabinet-level task force devise a plan for coordinating and streamlining the administration of all Federal programs that provide assistance to the poor.

Subject to the approval of Congress, the task force would revise program eligibility standards so that they are no longer obstacles to self sufficiency for those receiving assistance.

Applications for assistance would be made on one form and in one location. Program administration would be greatly improved and simplified. Services would be delivered according to coordinated plans designed to meet the needs of the individuals and families receiving assistance for a short period of time until they become self sufficient. Welfare would become temporary assistance, as it should be, rather than a way of life. It would exist to help people become self sufficient and independent.

We can no longer afford to pour billions of dollars into a welfare system that promotes dependence and perpetuates poverty. My legislation will enable us to implement comprehensive reform that coordinates services, eliminates duplication and promotes self sufficiency for welfare recipients. We can and we must take action now. I hope that this proposal can receive a thorough hearing and be enacted during the next Congress.

## STATEMENT OF THE CONGRESSIONAL BLACK CAUCUS IN COMMEMORATION OF THE LATE LEONARD C. BALL, AN EXECUTIVE ASSISTANT FOR THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES [AFSCME]

### HON. CHARLES A. HAYES

ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992.*

Mr. HAYES of Illinois. Mr. Speaker, I rise today to honor our dear departed friend, Leonard C. Ball. Leonard Ball, who left this Earth on July 9th, was a longtime confidant and supporter of the Members of the Congressional Black Caucus. Leonard devoted his life to labor and civil rights activism, and in that capacity he successfully established and strengthened critical ties between the labor movement and the African-American community.

Leonard was a faithful friend, tireless worker, and an extremely devoted family man. His commitment to eradicating racial inequalities that exist in and out of the trade union movement, was matched by none. The labor movement, as well as this Nation as a whole, has certainly benefitted from the unflinching dedication and good works of Leonard Ball.

Born in Middlesboro, KY and reared in Cincinnati, OH, Leonard attended the University of Cincinnati and received a master's degree in education from Antioch College. Mr. Ball worked as a supervisor at the U.S. Post Office in Cincinnati.

Before moving to Washington, DC in 1968, Mr. Ball gained wide respect in the Midwest as an effective community organizer. He was head of the Cincinnati chapter of the Congress of Racial Equality and helped lead rent strikes, economic boycotts, and protests against police brutality and harassment. He also traveled to the South in support of many civil rights groups. A tribute to his intellectual prowess, Mr. Ball delivered many lectures at the law schools of George Washington and Georgetown Universities, and became a mentor to many youngsters.

Prior to working for AFSCME, Mr. Ball was project director in the Washington office of the National Urban League, and an income maintenance coordinator with the United Planning Organization, an anti-poverty agency.

Mr. Ball retired last year after 19 years of service with AFSCME and a longstanding commitment to the goals of the Coalition of Black Trade Unionists [CBTU]. Mr. Ball spearheaded the undaunting task of organizing the founding conference of CBTU in Chicago, IL. Largely because of his herculean efforts, more than 1,200 black union officials and rank-and-file members attended the conference. Leonard went on to crganize and involve CBTU in anti-apartheid protests, international relief efforts, and political action workshops.

As much as we will all miss Leonard, I know that his family will miss him desperately. I extend the Congressional Black Caucus' heartfelt condolences to Leonard's loved ones. It is clear, however, that a soul and spirit as concerned, caring and giving as Leonard's will al-

ways remain with us. It should certainly be our goal to retain those special qualities that Leonard Ball exuded in his many years on this earth, and use them to continue his good works. We then can ensure that his legacy will live on. Thank you, Mr. Speaker, for allowing me this time.

To Leonard's wife, Jessie M. Ball, and all of his family we are,

Sincerely,
John Conyers, Jr.,
Louis Stokes,
Charles B. Rangel,
Harold E. Ford,
Mervyn M. Dymally,
Major R. Owens,
Alan Wheat,
Mike Espy,
John Lewis,
Donald Payne,
Barbara Rose-Collins,
Eleanor Holmes-Norton,
Maxine Waters,
William L. Clay,
Ronald V. Dellums,
Cardiss Collins,
Julian C. Dixon,
Gus Savage,
Edolphus Towns,
Charles A. Hayes,
Floyd Flake,
Kweisi Mfume,
Craig Washington,
Gary Franks,
William Jefferson,
Lucien Blackwell.

## INTRODUCTION OF THE AMERICAN CONSUMERS HEALTH CARE REFORM ACT

### HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. GEKAS. Mr. Speaker, today I am introducing the American Consumers Health Care Reform Act [ACHRA], legislation that will provide immediate and long-term reforms of our Nation's health care system. My action taken here today is a direct result of responses to my annual constituent questionnaire and a series of health care policy meetings throughout my congressional district.

According to my questionnaire and district meetings, a majority of my constituents and the American people clearly do not want the Federal Government running our Nation's health care system. What they do want, however, is a system that is more affordable and more accessible. The American Consumers' Health Care Reform Act will enact steps to do this and provide to all interested parties on health care reform a new and consolidated approach to the problem at hand.

What makes my bill different from others are new provisions to restructure Medicaid to deal with the aging population and the lack of quality care among the very poor. Secondly, my bill reforms the Federal system of subsidizing medical education to increase the pool of primary care physicians. Third, my bill makes available to every State the successful health outcomes data system that we have in Pennsylvania. Fourth, my bill frees the States from certain restrictive laws to allow them to be innovative by testing alternative delivery and financing systems to hold down costs. My bill also would institute much needed medical malpractice reform, to decrease defensive medical and litigation costs.

Most important, my bill deals with the issue of personal responsibility by empowering the Secretary of the Department of Health and Human Services to take action on the President's Healthy People 2000 Program. The Secretary would submit an action plan on health promotion and disease prevention and make recommendations to Congress to decrease the risk factors—e.g., smoking, high blood pressure, high blood cholesterol, overweight, sedentary lifestyle, high fat diet, inadequate childhood immunization, heavy use of alcohol, and failure to use seat belts—mentioned in that program.

I offer this bill, nicknamed ACHCRA (pronounced ak-ra), at this, the end of the 102d Congress, for study, review, comment and, ultimately, refinement, so that the 103d Congress will, hopefully, see its re-introduction in an even better version. A summary and rationale of the bill follows.

SUMMARY AND RATIONALE

TITLE I—IMMEDIATE REFORMS TO EXPAND ACCESS TO HEALTH CARE AND HEALTH INSURANCE

(1) Subtitle A—Expansion of Medicaid Program:

Expand Medicaid eligibility to increase access to insurance for the poor uninsured while restructuring Medicaid to allow states to limit their focus to long-term care services and transferring responsibility of acute care services to the federal government.

*Rationale*

Today the Medicaid program is not fulfilling the promise of the 1960s. Only 40 percent of the poor are actually covered by Medicaid, and the program is increasingly under-compensating providers.

This subtitle makes a programmatic distinction between the two basic elements of Medicaid: acute care and long-term care. The restructuring of Medicaid does not increase substantially the fiscal burden on either the states or the federal government, but rather, it makes the program more consistent nationwide and more manageable.

The proposed restructuring allows each governmental component to concentrate on what services it can best provide. The federal government has done a creditable job in its management of Medicare. Extending its reach to encompass the acute care portions of Medicaid would be a logical extension of that expertise.

In their management of long-term care services, states have shown much creativity. Having states responsible for this portion of Medicaid makes the most sense programmatically.

This definition of responsibilities allows us to expand significantly the eligibility for Medicaid with out damaging state budgets. Increasing Medicaid coverage to all persons below 100% of federal poverty level would mean providing coverage to an additional 10 million Americans. The new structure will also permit long overdue increases in Medicaid provider payment rates.

Finally, the merger of Medicaid administration with that of Medicare will permit administrative cost savings.

(2) Subtitle B—Medicare Reform:

Combine all administrative services of the Medicare program to improve its efficiency.

*Rationale*

Today the artificial distinctions between Medicare parts A & B no longer make programmatic sense. Consolidating the administration of the two parts will simplify program management, especially in those areas where the actual services provided to beneficiaries are comprised of both parts.

This proposal will yield administrative savings through the elimination of duplicative data processing, and overhead functions. It will also make Medicare program management simpler and easier for beneficiaries to understand.

(3) Subtitle C—Health Benefit Plan Reform:

Preemption of state mandates and anti-managed care laws; limitation on pre-existing exclusion; guaranteed issue and renewability; minimum benefits package; modified community rating.

*Rationale*

Small businesses today face an insurance market that is unpredictable, arbitrary, and unaccountable to its customers. Insurers have begun using aggressive rating and underwriting practices, resulting in severe segmentation of the small employer market place. The current system gives insurers incentives to compete—but only to underwrite plans for healthy individuals.

Insurance companies can cancel or refuse to renew policies, and workers with pre-existing health conditions are often denied coverage. Small businesses experience double or triple digit annual premium increases that far outpace national averages.

This bill improves the availability and fairness of health insurance for small businesses. Meaningful market reforms must be enacted if private insurance coverage is to continue to play a significant role in health care financing.

(4) Subtitle D—Medical Malpractice Reform:

Mandatory pre-trial alternative dispute resolution; limits on non-economic damages; statute of limitations; pretrial settlement offer; limitation on attorney's fees; liability for costs; uniform standards; use of practice guidelines; other

*Rationale*

We consider these reforms an essential component of national health reform in that access to health care has been curtailed in several regions because of fear of suit and the costs of liability insurance. In addition to insurance premiums, it has been estimated that as much as $20 billion is spent annually on so-called defensive medicine—diagnostic tests, procedures and hospitalizations provided primarily to reduce perceived liability, not because they were medically necessary.

The proposed reforms will put in place a system where injured parties will have their claims considered, and awards made, much faster than under the existing system. Furthermore, physicians and other health providers not practicing up to community standards will be more identifiable, and eliminated from medical practice.

The current liability system fails patients, providers, and the public. It is expensive, unfair in awarding claims, and slow to respond. This bill includes comprehensive reforms which will improve the legal climate in which health care is provided, encourage ongoing quality improvement in medical care, and enhance the safety of the public through more rigorous processes of medical licensure and credential review

(5) Subtitle E—Medical Education Reform:

To increase the national pool of primary care physicians, increase the medical education funding percentage mix for primary care education and decrease the funding percentage going for specialists education. S

*Rationale*

Medical education in the U.S. is without question one of the most successful components of our current health care system, training large numbers of health personnel, and encouraging biomedical research and development of new medical technologies.

However, over the past twenty years the federal government has tried through a variety of initiatives to promote education of more primary care providers in relation to the number of specialists trained. All such efforts to date have been of limited success, and in recent years the number of students choosing primary care specialties, e.g. family practice, general internal medicine and pediatrics, has been declining.

This specialty imbalance and a growing number of sub-specialists, contributes to ongoing shortages of health personnel in recognized medically underserved areas. This bill addresses the problem by phasing in, over a ten year period, financial incentives for the training of primary care physicians. This is accomplished by redirecting funds currently allocated to post-graduate, i.e. "residency" training under the Medicare program.

While several national commissions and councils addressing problems related to medical manpower have recommended we should strive for a goal of producing 50% primary care physicians, there have not previously been recommendations to achieve this. This bill provides one important component of educational reform by requiring balanced financing of graduate medical education. This change is to be phased in over a long enough period so as not to disrupt any cycle of residency training, which can last for as long as ten years.

The proposal also requires states to determine their respective needs for health personnel, and assist in directing educational funds in order to meet society's health care needs through training the proper mix and type of health professional.

(6) Subtitle F—Public Delivery System:

Increase funding for publicly-funded health centers and improve the health habits of Americans by directing the HHS Secretary to develop an action plan on health promotion and disease prevention.

*Rationale*

The recent debate on national health reform has focused primarily on financing and health insurance issues, and little attention seems to have been paid to the health care delivery system itself. Yet many studies have documented that expanded health insurance coverage alone may not be sufficient to improve either access to health care services, nor improved health status. This is particularly true for the medically indigent—individuals and families without private health insurance who suffer from chronic poverty and/or are geographically isolated. Even if there were "universal access" to health insurance, there would still be a significant number of our citizens who would go without even basic primary and preventive health services. These individuals tend to postpone treatment of health problems, and then often show up at hospital emergency rooms for treatment of costly and complicated medical conditions which may have been entirely preventable with early treatment. The cost to hospitals for treatment of the medically uninsured was estimated to be $11 billion in 1988, and this burden is increasing, and unevenly distributed.

To ensure early access to preventive and primary care, the bill calls for expansion of existing efforts to serve the most needy among us through the establishment of a publicly funded community health center in every designated health personnel shortage area. This proven public health approach to serving the medically indigent will improve the health status of those most in need, and limit the uncompensated care provided by our nation's hospitals.

As the consensus is developing on the need for health care reform there accompanies it a growing awareness that the health care system simply cannot keep up with the demands placed on it by the public, even if there were universal insurance coverage. Much of the costly care provided is directly related to issues beyond control of health planners, policy makers, and providers—the aging of our society, drug abuse, sexually transmitted diseases, unwanted and unintended pregnancies, violence, and unhealthy lifestyles. The "results" of these factors often show up at the hospital emergency room, requiring immediate medical care.

The public has grown to expect highly sophisticated and technical solutions to whatever ails them. Our bill begins to address the magnitude of these social problems and the unrealistic expectations on the part of the public by emphasizing the critical need for a more focused and meaningful effort in disease prevention and health promotion.

Fortunately, the steps which need to be taken have already been determined by leaders in public health, in collaboration with experts in academic medicine, economics and social policy. Their recommendations are published by the Public Health Service in Healthy People 2000: National Disease Prevention and Health Promotion Objectives. This document provides information of the cost of our major social ills, and sets realistic goals in health status for the nation to strive for by the year 2000.

Our bill would significantly expand the activities and resources of the Office of Disease Prevention and Health Promotion, which would enable them to serve as a more effective catalyst and coordinator of the achieving of the goals established in Healthy People 2000. Furthermore, it creates for the first time a federal focus for all nutrition activities, recognizing that the number one and two killers of our citizens (arteriosclerotic vascular disease, and cancer, respectively) are strongly related to dietary practices, and that current nutrition practices are often confusing and contradictory.

Finally, our bill begins the difficult process of educating the public about the appropriate use of medical technology and resources. Just as medical personnel have been found to change the frequency with which they order diagnostic tests and perform therapeutic procedures when data calls into question their efficacy, it is felt that the general public must learn about the relative benefits of medical technology, the tradeoffs in using costly high technology with limited benefits for a few vs. broad scale use of inexpensive preventive measures for the benefit of many. In order to accomplish this, a series of demonstration projects on health care decision making are established, related to bringing patients and their families into the process.

The bill recognizes that the health care system cannot succeed if its perceived mission is the "fix" a burgeoning number of costly societal problems. Solutions lie with individuals assuming responsibility for their own behavior, with families, educators, and clergy promoting healthy attitudes, and government supporting more vigorous health promotion and disease prevention policies.

(7) Subtitle G—Public Disclosure:

HHS Secretary would work with states to develop health outcomes data systems to empower consumers in making prudent, cost-effective decisions about utilizing the health care system.

*Rationale*

The provision for full public disclosure of cost and quality information is built on a belief that individuals must share in the responsible use of health care services. This expectation cannot be realized unless individuals have access to information on the cost and quality of service options.

Quality information should be available to help consumers avoid substandard providers, to educate the public about the quality of medical care, and to stimulate the medical community to improve quality standards.

Cost information is important to purchasers because of the rising cost of care. In an era of increasing coinsurance and deductibles, consumers need to know the cost consequences of their provider choices. Also, employee benefits managers need to know the cost profiles of different providers to be able to "shop" for the most cost effective services.

(8) Subtitle H—Tax Incentives to Provide Only Minimum Benefits:

Employers could deduct only the cost of a basic benefits package.

*Rationale*

The current tax treatment of health insurance costs has contributed significantly to the problems of our health care system. Because premiums are tax deductible to the employer and not taxable to the employee, very generous health insurance benefit plans have proliferated in certain industries. The current tax policy is a subsidy for these arrangements, and employees are inclined to take compensation in terms of fringe benefits rather than in higher wages.

The changes in tax policy in the bill would increase employee recognition of the true costs of their health benefits and allow an expansion of the deductibility of basic benefits. It is expected that employees would become more sensitive to the cost of coverage and more aggressive in demanding that costs be held down.

The second of the two titles, "National Health Care Reform Proposals", has two subtitled provisions to cut the costs associated with health care. The subtitles follow.

(1) Subtitle A—National Health Care Reform Commission:

Establish a health care commission to: Create the minimum benefits package and analyze the results of state demonstration projects;

(2) Subtitle B—Demonstration Projects on Alternative Financing and Delivery Systems:

States will work with the Department of Health and Human Services (HHS) Secretary to test alternative delivery systems in order to cut the costs associated with health care.

*Rationale*

The cost of the health care problem is long-term, perhaps chronic, and both cost control and significant enhancements in access require reform of health care delivery mechanisms. In order to achieve long-term structural reform, some of the underlying assumptions of which our current delivery system is based must be re-examined.

Demonstrations are required when there is considerable uncertainty concerning the feasibility of various policy alternatives. Experiments would be conducted and evaluated simultaneously to determine which policy option yields the best results.

The American Consumers Health Care Reform Act will go a long way in the debate that will to come next year in providing a new system.

## FIRST ANNUAL AMERICAN HEART WALK

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. GILMAN. Mr. Speaker, I rise to call to the attention of all our colleagues a noteworthy event taking place throughout our Nation this weekend, October 3-4, 1992.

The American Heart Association, which is the Nation's largest voluntary health agency dedicated to the reduction of disability and death from heart and blood vessel diseases, is holding its first national walking event to raise funds in support of cardiovascular research and education. The American Heart Walk, as this important new fundraising event is called, is being held in more than 700 cities throughout our Nation.

Lederle Laboratories, a division of American Cyanamid Co., which has research and manufacturing facilities in my 22d Congressional District of New York, is the national sponsor of the first American Health Walk. Lederle is a pharmaceutical company that, through its own cardiovascular research efforts, shares the American Heart Association's goal of advancing cardiovascular health for all Americans.

I would like to commend Lederle Laboratories; Mr. David Bethune, group vice president of American Cyanamid; and Mr. Edward Fritzky, president of Lederle Laboratories, for nationally sponsoring the first American Heart Walk.

In my own region, Mr. Charles Isberg, the public relations director of Lederle Labs, is to be especially commended for his outstanding services to this cause.

I applaud Lederle's substantial commitment to help in the fight against heart disease, our Nation's No. 1 killer.

Mr. Speaker, I invite all of our colleagues to join with me in commending Lederle for their commitment, in thanking all of the nationwide participants in the American Heart Walk for their compassion and their efforts, and the American Heart Association for keeping up this fight against such a major enemy of humankind.

## TRIBUTE TO JOHNNIE B. THOMASON

### HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to a longtime friend, Johnnie B. Thomason, of Arlington, KY, who died at age 70 last August 13 in Paducah, KY.

Johnnie Thomason served 8 years as a member of the Arlington City Council prior to his death. He contacted me several times in recent years regarding assistance for Arlington and Carlisle County, KY.

Johnnie Thomason was well known and highly regarded in western Kentucky.

Mr. Thomason, a retired maintenance mechanic for Union Carbide, was a member of Oil, Chemical and Atomic Workers Union Local 3–550.

The World War II veteran was a member of American Legion Post 250 of Arlington and Veterans of Foreign Wars Post 5409 in Bardwell.

He was a member of First Baptist Church in Arlington, KY.

Surviving are four daughters, Bonnie T. Hicks of Paducah, Mary Jane Tyler of Arlington, Wanda O'Connor of Wickliffe, and Loretia Cornette of Alexandria, VA; two sons, Mike Thomason of Bardwell, and Mickie Thomason of Paducah; one sister, Dorothy Burgess of Arlington; one brother, Sammie Thomason of Arlington, 15 grandchildren and two great-grandchildren.

His wife, Willie Mae Beshears Thomason, preceded him in death as did four sisters and two brothers. His parents were Amos and Henrietta Blackburn Thomason.

My wife Carol and I extend to the family of Johnnie B. Thomason our sympathy.

## U.S. POLICY TOWARD TAIWAN

### HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. SOLARZ. Mr. Speaker, my good friend, Dr. Trong Chai, recently gave a speech on United States policy toward Taiwan at a meeting here on Capitol Hill. Dr. Chai is a Taiwanese who lived in the United States for over two decades and has now returned to his homeland to participate in the island's political life. He presents a point of view that deserves consideration by those who care about the future of Taiwan, and I, therefore, ask that it be printed in the CONGRESSIONAL RECORD and made accessible to our colleagues.

U.S. POLICY TOWARD TAIWAN

(By Trong R. Chai, Ph.D.)

Ladies and Gentlemen: My heart was filled with joy, gratitude and fear, when I received an invitation six months ago from four most distinguished gentlemen: Senator Pell, Chairman of the Senate Foreign Relations Committee, Congressman Fascell, Chairman of the House Foreign Affairs Committee, Senator Cranston, and Congressman Solarz, Chairman of the House Asian Subcommittee.

I wish to thank you deeply for your concern for the people in Taiwan, democratization of Taiwan's political processes, and the future of this island.

I am very pleased to be here to see once again so many familiar faces in a forum with a great tradition of democracy. I would like to share with you my observations in Taiwan in the past two years and my endeavor to lead the Taiwanese to decide their future through a plebiscite.

Yet, I feel frightened.

I feel frightened, because to determine Taiwan's future by plebiscite is still a far cry from reality. Since my return to Taiwan two years ago to launch a plebiscite movement, I have participated in a peace demonstration, the largest and most fervent of its kind in the history of Taiwan. It indicates a strong desire of the 20 million people in Taiwan to determine their own future.

My assertion of a plebiscite fits perfectly well in the changing world trend in pursuit of true democracy. However, even with a peaceful movement such as this one, no one, under the current regime, can change the reactionary forces within the Nationalist Party, who block all efforts for democratization.

To express our concerns, I and some of Taiwan's leaders from all walks of life are here today. We firmly believe that the future of Taiwan should be in the hands of the 20 million inhabitants of Taiwan. They should, through a genuinely democratic process, voice their true opinions on the future and international status of Taiwan.

I believe that, in the spirit of The Mayflower, my distinguished guests, who are here today, can fully grasp the idea of self-determination the Taiwanese people want, and you will, without reservations, support the wish of the Taiwanese to strive for democracy.

To me, the best support the United States can give to Taiwan is, in its quest for a new world order, to change its outdated Taiwan policy.

In fact, the people of Taiwan and their government have, willingly and unwillingly, followed your changing Taiwan policy such as stated on various occasions by, among others, Honorable James Lilley, former Ambassador to Beijing, ex-President Richard Nixon, and President George Bush, who just made a great decision to sell F–16 fighter planes to Taiwan.

Since the Shanghai Communique signed by the Nixon Administration and China in 1972, the United States has, again and again, stressed its basic position on China that the U.S. "acknowledges that there is only one China and Taiwan is a part of China." Such pledge might settle temporarily the tensions between the United States and China; however, it provides an implicit ground to block the people of Taiwan from pursuing their own happiness and future.

Today, I want to express the feelings of 20 million Taiwanese and to point out the misconceptions inherent in the Shanghai Communique.

The "acknowledgement" by the United States should be limited to the view of the Chinese; it should never be interpreted as understanding the will of the people on Taiwan. Because there has not been a means given to them to express their own true views on basic political matters that affect their future.

The Communique ignores the iron fact that Taiwan, for almost 400 years, has been separated from China. During this period, there has been very little contact between them. Above all, the People's Republic of China has never set foot on Taiwan.

We, myself and my colleagues, are here to reflect the will of 20 million Taiwanese to call for the U.S. Congress and Senate to urge your government to adopt a new Taiwan policy, such that the wish of the Taiwanese be respected, to pay greater attention to the political and, especially, the growing economic power of this island in the world arena, to encourage holding a plebiscite in Taiwan,

and to let the Taiwanese decide their own future—whether to be united with China, to maintain its status quo, or to establish a new, independent nation of its own.

I beg you to consider seriously the following question: Isn't it a most contributing first step toward building a new order in the Far East by providing such a mechanism that the Taiwanese vote to decide their own future?

My beloved homeland Taiwan is facing an unprecedented change: The first General Election in 40 years. Myself and my colleagues have, for 40 some years, been subject to the Kuomintang's oppression. Such political chains have, seemingly, been broken and Taiwan is walking toward democracy.

However, I would like to remind you that, although members of Congress are to be elected, there is no assurance of democracy there.

One of the most damaging outcomes of 40 years of martial law rule is monopoly of the mass media by the Nationalist Party. Taking the medium of television as an example, the Democratic Progressive Party has next to none in access to such medium, whereas the Nationalists have full access to it. In last year's National Assembly election, all candidates from the DPP camp were only allocated 65 minutes and 15 seconds of television time!

Ladies and Gentlemen, if, hypothetically speaking, there exists in the United States a political game whose winner in pre-determined, even though the race has not formally begun, would you consider it beyond comprehension? To us, who are accustomed to KMT's authoritarianism, the understanding of such rules of the game is by no means beyond our reach. As a matter of fact, every one of us knows that KMT will never stop playing such a dirty game.

My distinguished guests, do you want to join such an election? Besides, who, in this world, will call such a political game an "election" at all?

Unfortunately, myself and my good colleagues, some of them presently being sitting next to you, have no other choice but to participate in a shameful "General Election" a la such rule this winter. Not because we concur that rule, but because this is the only means we can fight for dignity for our people.

My friends, there are plenty of tricks used by the KMT to negate the tempo of democratization such as ELECTION FRAUD. Unabasedly, the KMT dares to suggest to its candidates to resort to illegal act such as vote buying to ensure winning. According to a scholarly work title "Election Fraud in Taiwan", published this year by Taiwan's National Academy of Arts and Sciences, a study, using scientific sampling method, on voting behavior, shows 22.3% of registered voters claimed they received gifts from the candidates: and, a quarter of voters received gifts from the candidates who participated in last December's National Assembly election.

Professor Yang Wen-Shan, who supervised this research project, referring to the above study, commented: "The remarks on such research findings are too mild, which underestimate the extent of election fraud." If then, one can charge with certainty that no less than 3 million voters can be exposed to and receive illegal gifts in a typical island-wide election.

Let me give you one more horrifying story on vote-buying. Months ago, in mayoral contest at Hsinying City, the KMT candidate spent 2,000 to 3,000 Taiwan Dollars—equivalent to one hundred US dollars—for one Identification Card (if the I.D. card is sold during the election time, the voter cannot cast his vote; instead, anyone who temporarily possesses the I.D. card could vote for that voter) to buy 500 I.D. Cards from potential supporters of the opposition candidate, Mr. Tseng Tien-teh. The repercussion was that Mr. Tseng, who represented the Democratic Progressive Party for that position, was defeated by 238 votes!

My friends, if one vote can trade for one hundred US dollars, and on average, 3 million registered voters could receive gifts at any given island-wide election, three hundred million dollars will have to spent in the coming election just for vote buying! According to Dr. Wu Nai-teh, another researcher at the National Academy of Arts and Sciences: "All vote buyers came from the KMT camp" What a horrible story on "democracy" under current regime!

I and other opinion leaders, who are now sitting next to you in this room, are very angry at this destructive state of political affairs. We are ashamed of it. However, we are not here to ask you for sympathy. We are here to remind you once again of the burning desire of 20 million people how much we want to determine our own will, through genuine referendum, in national affairs such as the political institutions, social structures, and fate of the nation.

I hope very much my presentation today can give you a sufficiently clear picture how democracy is mislead and distorted in the island where we live.

May I appeal to you, my distinguished guests, when you work for a new world order of peace and democracy, would you please be so kind as to frequently remind yourselves of a forgotten Asian island, called Taiwan, where, under the KMT's rigid and fictitious "One China" policy, 20 million people are constantly suffering from international isolation and denial of the right to self-determination.

I trust democracy is the best defense for Taiwan against aggression from China. And providing support for a plebiscite to safeguard security and happiness for 20 million people is the mildest action the American people can take with regard to Taiwan.

Earnestly hoping that the American and Taiwanese people work together to witness jointly a genuine democracy and lasting peace on Taiwan.

Thank you very much.

## IN RECOGNITION OF DR. J. TED HARTMAN

### HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. COMBEST. Mr. Speaker, I rise today to pay tribute to an outstanding man from my home State of Texas, Dr. J. Ted Hartman. Dr. Hartman will be retiring from Texas Tech University Health Sciences Center, located in Lubbock, TX, after 21 faithful years of service.

After coming to Texas Tech University in 1971 as a professor and chairman of the orthopedic surgery department, Dr. Hartman has risen to the position of executive director of the Texas Tech Mednet project. This vital program is a telecommunications network which operates out of the health sciences center, linking the Lubbock Medical Center with 50 rural hospitals. Mednet enables citizens to receive valuable medical care through satellite consultations. Dr. Hartman has devoted his time to ensuring that rural Americans have instant access to up-to-date health care information and medical professionals.

Mr. Speaker, I cannot stress enough the importance of such a project to ensuring quality health care for rural Texas. As you may know, there is a serious health care crisis in rural areas. As a member of the Rural Health Care Coalition, I have always supported efforts which would ensure access to health care for rural Americans. It is for this reason I have been a strong supporter of the Mednet system. Mednet has greatly benefited west Texas and it is my hope that this program will serve as a pilot project for other States.

Dr. Hartman has faithfully given his time and intellect to improving rural health care and abating professional isolation in the medical community. His hands-on approach and tireless efforts throughout the years have contributed to Mednet's great success.

Mr. Speaker, it is an honor for me to recognize someone who has contributed to improving the quality of health care for all Americans. Although I regret that he will be retiring from Texas Tech University, I am certain that Dr. Hartman will continue to be active in the health care community. I commend him for his dedication and outstanding commitment to improving health care service. The impact Dr. Hartman has made will be recognized for generations to come.

## TRANSPORTATION FUNDING ESSENTIAL FOR RURAL AREAS

### HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. DORGAN of North Dakota. Mr. Speaker, Members of Congress often view transportation funding as a means of improving the infrastructure and providing jobs in urban areas.

I just want to point out that this funding is needed just as critically in rural States such as North Dakota to help State and local governments to maintain our roads, bridges, and the city streets. We have to keep our transportation system in reasonable condition because transportation is so critical to our entire economic life in North Dakota.

Beyond much needed highway-related funding, this appropriations bill, H.R. 5518, contains funds to assist North Dakota and the Nation in maintaining good railroad service, and to continue to develop our air transportation system.

A modest appropriation of $8 million, for example, will allow nine States, including North Dakota, to provide grants and low-interest loans to help repair and rebuild branch lines. These are often lines taken over by fledgling short line companies, and the continued operation of those lines is critical to our ability to ship farm commodities from our State.

The bill also provides $2 million for the Aerospace Distant Learning Program, based at the University of North Dakota, to continue. This program enriches the air sciences pro-

gram of several universities, including UND, by allowing the universities to share their instructors and curriculum by televising courses to several university air science centers.

Improvements to the air traffic controller simulation laboratory at UND is provided $245,000 in this bill, and North Dakota State University is to receive $500,000 to develop its Aero-Manufacturing Laboratory.

This bill also includes language that will allow Dickinson, an isolated city in western North Dakota that is hours from any other commercial air service, to apply for essential air service matching funds from the Federal Aviation Administration. Such funding makes it possible for a small city to gain modest commercial airline service to service its people and businesses.

Funding of $7.5 million for development of multipurpose recreational trails nationally, strongly desired by sporting and outdoor groups in my State and elsewhere, was also included.

In this year of very restricted Federal spending, the funds that have been made available will help North Dakota continue to play important roles in the Nation's transportation system.

## TRIBUTE TO CAROL LAVELL

### HON. BERNIE SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. SANDERS. Mr. Speaker, I would like to take this opportunity to call the attention of this House to the most recent triumph of Ms. Carol Lavell, and to welcome her home to Vermont after her most successful journey to Barcelona, Spain, as a participant in the XXV Olympic games.

Ms. Lavell and her outstanding horse, Gifted, led the U.S. equestrian team to a team bronze medal victory in dressage at the Barcelona games. Ms. Lavell also placed sixth in the individual dressage final and won the 1992 Miller's USET National Grand Prix Championship as the highest placing American in the Olympic equestrian events.

These tremendous achievements are only the latest in Ms. Lavell's long and distinguished career as an equestrian. Over the years, she has won countless major dressage awards even when confronted with what many of us would consider overwhelming adversity. Several years ago, Ms. Lavell rode and placed in international competition with a broken back. In 1989, Ms. Lavell and Gifted were double gold medalists at the North American Dressage Championship. In 1990, the U.S. Olympic Committee selected Ms. Lavell as the Female Equestrian Athlete of the Year. And this past summer, Ms. Lavell and Gifted became the first Americans to win the Grand Prix at the prestigious international competition at Goodwood, England.

My wife, Jane, is more familiar with the world of equestrian competition than I. Her late brother, Benny O'Meara, recently named to the Show Jumping Hall of Fame, loaned some of his best horses to the U.S. equestrian team during past Olympic competitions. But as a very, very amateur horseback rider myself, I also have a personal interest in Ms. Lavell's remarkable accomplishments.

Ms. Lavell who is 49 years old, has lived in Fairfax, VT, for more than 25 years. She is responsible for virtually all the training and coaching that her horse, Gifted, has received. Last year, a top European Olympic team coach offered her $1 million for Gifted. Her response was, let us say, a resounding, unequivocal "no."

With the assistance and support of her husband, Tom Lavell, her groom, Ande White, and her Vermont farrier, Stephen Hazen, she has compiled an outstanding record of mastery and excellence. Vermonters will officially welcome her home at a reception in Burlington sponsored by a host of Vermont businesses and community organizations.

Carol Lavell is a true champion, and we are very proud to claim her as a Vermonter.

## A CONGRESSIONAL SALUTE TO DETECTIVE OLIVIA BURBANK

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. ANDERSON. Mr. Speaker, Friday, November 6, 1992, will mark the retirement of one of the Long Beach Police Department's finest detectives, Olivia Burbank. On Tuesday, November 3, 1992, the department will honor Olivia with a service retirement party. It is with great pride and pleasure that I rise today to pay tribute to this remarkable woman who has served our community with great distinction.

A native of Los Angeles, Olivia began her career with the Long Beach Police Department as a stenographer on October 3, 1960. Her responsibilities in this capacity included patrol reporting and her 120 words per minute typing skills and knowledge of shorthand were an asset to this unit. She remained in the stenography department for 11 years, advancing to a personnel and training position. By 1971, Olivia chose to try a different career path within the department. She entered the Long Beach Police Academy and was honored as the "Top Graduate" of her class. Following graduation, Olivia was hired as a police officer by the LBPD on August 3, 1971. Her first assignment was to the LBPD Women's Jail. By November 1971, Olivia had made detective and was assigned to forgery/fraud, felony morals—sex crimes—and juvenile crimes against property details.

As fellow detectives and superiors will tell you, Detective Burbank has excelled in all of her assignments. She has been the recipient of 33 commendations from the community and her superiors for excellence in police work throughout her career. In 1989, Olivia was nominated "Woman Peace Officer of the Year" by the Women's Peace Officer Association—Southern California chapter. She was also selected as "Employee of the Quarter" in December 1991. Olivia is perhaps best known as the resident expert in the sex crimes detail. Her compassion for and sensitivity toward victims of violent crimes has been well documented. She has received many of her commendations for her professionalism in this field and frequently gives presentations to citizen groups concerning rape and its victims.

Her 32 year and 1 month tenure with the LBPD has not been all work. Detective Olivia Burbank met her husband Detective Ronald Burbank while they were working in the forgery/fraud detail. The Burbanks will be retiring together this November 6 and as avid campers, plan to spend their free time traveling in their 32-foot trailer.

Mr. Speaker, my wife Lee joins me in extending this congressional salute to Detective Olivia Burbank for her devotion to the Long Beach Police Department and community. We wish Olivia, her husband Ron, son Dana, daughter Denise, and stepdaughters Patty and Christy, all the best in the years to come.

## ST. XAVIER'S INTERNATIONAL BUSINESS CENTER

### HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. LIPINSKI. Mr. Speaker, I rise today to call to the attention of my colleagues, a unique program at a small university in the southside of Chicago, IL. The school is St. Xavier University.

St. Xavier is unique because a large percentage of its student population lives and works in south Chicago. They come from diverse economic and ethic backgrounds and represent the first generation of families to attend an institution of higher learning.

This university, in its international business program, offers an American masters in business administration [MBA] degree to students overseas at campuses in Paris, France and Milan, Italy. What is more unique, however, is St. Xavier's exchange programs where foreign students and faculty come to the United States to learn American business methods and at the same time teach foreign business methods to American students. In this context, St. Xavier is the largest provider of management training for executives from the new Commonwealth of Independent States.

St. Xavier's efforts have generated considerable interest from the business community. Indications from the business sector have shown parallels in the school's idea with United States foreign policy goals overseas, particularly in the former Soviet Union.

Included in St. Xavier's efforts is a plan to work with small businesses, particularly in Chicago wishing to expand their markets internationally, but lack the know-how when it comes to licensing requirements, customs laws, and exchange rate problems. Through its new program, St. Xavier will work with local and regional businesses by putting its faculty resources to work in continuing education type management training programs, in an effort to strengthen the economic base of Chicagoland and the Midwest.

I and other members of the Illinois delegation, notably Congressman JOHN PORTER, have sought to explore ways of working with St. Xavier to enhance its efforts in the areas of international business and trade assistance

education. A good beginning has been made and considerable interest has been generated.

I intend to work in the next Congress with St. Xavier's president, Dr. Ron Champagne, to further explore and develop ideas and programs he has fashioned, and to capitalize on the school's significant progress.

## TOP PRIORITY—REDUCING THE BUDGET DEFICIT

### HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. CAMPBELL of California. Mr. Speaker, since being elected to Congress in 1988 reducing the Federal budget deficit has been my top priority. I have raised my voice many times in this Chamber about the crisis being caused by ever increasing deficits.

I introduced the resolution on the line-item veto. I have worked to limit the Government's expenditures by opposing unnecessary new spending. I introduced legislation to rescind existing spending. I supported the base closure process, even the closure of bases in my district. I pushed for the balanced budget amendment. When that failed, I put forward a plan that will change Congress' incentive to add to the deficit by limiting spending and returning a portion of the savings to American taxpayers.

The deficit crisis still looms and I plan to continue my fight against the deficit until my last day in office. I have introduced H.R. 6019 which will cut fiscal year 1993 spending by 10 percent. The bill would reduce next year's deficit by nearly $100 billion according to current CBO estimates. This is a meaningful cut. Considering the significance of the fiscal crisis, it is warranted. The cuts would be spread across the board. Mandatory spending would not be exempt; however, the Government would keep its contract with Social Security recipients.

Mr. Speaker, There is no doubt that the country must swallow what might be called a bitter pill. However, the medicine, while strong, is not nearly so bad as the disease. Without action there will be more record deficits in the coming years. They will increasingly sap the long-term strength of our economy. Further, interest on the national debt is the fastest growing segment of the budget. If we don't take real steps to eliminate the deficit, debt service costs will eliminate any options we now have.

Recovery from the recession must be built on a firm fiscal foundation. Let's take the necessary steps for deficit reduction so that America will remain the largest, most vigorous and competitive economy in the world.

## TRIBUTE TO SUN-MAID GROWERS OF CALIFORNIA ON THEIR 80TH BIRTHDAY

### HON. CALVIN DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. DOOLEY. Mr. Speaker, I rise to acknowledge and honor the accomplishments of Sun-Maid Growers of California, a leading producer of California raisins for 80 years. Since its establishment in 1912, Sun-Maid has developed into one of the Nation's most successful and enduring farmer owned and operated cooperatives. Through innovation and leadership, Sun-Maid has persevered through years of economic hardship and market instability to become what it is today.

At the heart of Sun-Maid's success are the 1,500 growers who consistently provide consumers with a wide variety of high grade raisins. Many current grower members represent several generations of membership in the Sun-Maid cooperative. Years of dedication and arduous labor have resulted in annual raisin production averaging 100,000 tons.

In an effort to efficiently process and package the cooperative's yearly output, Sun-Maid designed and constructed its Kingsburg, CA plant, the world's largest and most modern raisin packing facility. The 100-acre plant site uses state-of-the-art raisin processing equipment to package and distribute up to 1,000 tons of raisins a day. Over 600 employees of the Kingsburg plant work to ensure the production of high quality products and their timely delivery to Sun-Maid clients worldwide.

Sun-Maid Growers continues to explore and develop new markets in an effort to increase raisin consumption and promote California raisins throughout the United States and the world. An aggressive marketing strategy and creative advertising have made the Sun-Maid trademark one of the most recognized brands in the world. Sun-Maid products are shipped to 25 countries worldwide and expansion of international markets continues to be a focus of Sun-Maid's efforts. Sales of Sun-Maid products remain strongest in the United States and Canada and more than half of all raisins sold by American grocers are Sun-Maid.

With growing consumer awareness of the high nutritional value of raisins, Sun-Maid can look optimistically toward a future of continued growth and prosperity. I applaud this fine California agriculture cooperative for 80 years of excellence and salute the many grower members and employees of Sun-Maid Growers for their dedication and commitment to producing a high quality product.

## TRIBUTE TO MIKE ROBBINS

### HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. DYMALLY. Mr. Speaker, I rise to pay tribute to one of the great humanitarians in my congressional district—Mike Robbins. Many are the charities he has benefited over the years. Let me list just some of the things this good samaritan has done to make the world a little better place for the poor and afflicted. To the homeless he has been a generous benefactor. He has donated thousands of dollars in clothing and other items to Para Los Ninos, an organization that assists homeless children. To the Midnight Missions, a haven for homeless men, he has given thousands of dollars in clothing and money. He has made similar contributions to the Apostolic Church. To Aslan House, an organization that takes care of children with sickle cell anemia, he has provided thousands of dollars of computer equipment. To the Make-A-Wish Foundation he regularly provides free limousine service for terminally ill children.

But Mike Robbins has given of his time as well as his money. His support of the Christian Children's Foundation has resulted in his adopting over 25 children in the past 25 years. He has given countless hours to children's organizations such as Girls, Inc., the YMCA, and the Challengers Boys and Girls Clubs.

Mike Robbins has done all of these things quietly and out of a sense of deep commitment and compassion. He is more than a point of light, he is a beam of brotherhood whose deeds need to be emulated throughout our country.

## EASTERN CONNECTICUT ITALIAN-AMERICANS HONOR THEIR HISTORY

### HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. GEJDENSON. Mr. Speaker, the 500th anniversary of Christopher Columbus' arrival in the Americas has sparked a series of cultural and ethnic celebrations throughout eastern Connecticut, where large populations of Italian-Americans have thrived for several generations. In towns including Norwich, Middletown, Willimantic, and New London, men and women of Italian descent have worked hard to track the rich history of their early heritage in the United States, and have put together festive plans for Columbus Day weekend.

While there are subtle differences in the stories of how Italian-Americans settled into various pockets across eastern Connecticut, many themes hold true throughout the region. These immigrants, like their Irish, German and Polish counterparts during the late 19th and early 20th century, came to America seeking a prosperous new life. Many Italian immigrants fully intended to come to America, make a fortune, then return to their native villages to live like princes.

But for most, the dream of going back to their homes across the Atlantic was quashed by two unexpected factors: the extreme wealth they expected to find was not so easily attainable; and they became part of a phenomenon we now call the melting pot.

As many of us know, Italian-Americans brought significant contributions into the melting pot. In eastern Connecticut, they have made strides in professional, political, educational, religious, artistic, and medical fields.

By keeping alive and sharing their rich traditions, Italian-Americans have also made vital contributions to the fabric of our unique American culture.

In eastern Connecticut, the first generations of Italian immigrants found jobs in local mills and textile factories which were then at peak employment rates. They quickly branched into professional sectors, owning grocery stores, barber, tailor, and masonry shops, as well as restaurants, and other businesses in areas including Middletown's riverfront section, Garibaldi Square in New London, and throughout the city of Norwich.

Integration, through the help of public school systems, allowed subsequent Italian-American generations to reach even further in pursuit of the American dream. Today Italian-Americans are leaders in medical, academic, political, legal, business, and artistic fields.

Now, to honor the tremendous feats of their ancestors, Italian-Americans have gone to great lengths to celebrate the Columbus Quincentennial.

In Norwich, a 17-foot monument will be dedicated to the early Norwich Italian settlers on October 11. Inscribed on the base of the monument, on the same side as Columbus' profile, are the words "Onorate I Vistri Genitori" which means "Honor Your Parents." Also on the base will be the names of 400 settlers, who organizers say, "are being honored for the sacrifices they endured, and for the cultural contributions they have given the community." Celebrations in Norwich will also include a banquet on October 10, a special mass and procession, and much more.

In Middletown, nearly a week of cultural activities will coincide with the Columbus holiday. These activities, which follow annual events including the Italian-Heritage Parade and St. Sebastian's Festival, will place emphasis on the city's cultural diversity. They include: a lecture series on America's ethnic diversity; a concert performance by an Italian choir; a regatta and celebration by the riverfront; and more.

In Willimantic, two important anniversaries will coincide: the 300th anniversary of the city's founding and the 500th anniversary of Columbus' exploration. During the tercentennial parade, the Princes Yolandi-Guiseppe Garibaldi Lodge, Order of Sons of Italy of America will host a marching unit and a float.

And in New London, Italian-Americans have been celebrating all year. This summer, the city hosted the New World Festival during which replica ships of the *Nina, Pinta* and *Santa Maria* were at port for 1 week, attracting thousands of visitors every day. New London also held its annual Festival Italiano which featured a world class bike race, an opera, an Italian wine tasting, and much more. For Columbus Day weekend, a dinner dance and banquet for several hundred people will be held at Ocean Beach Park.

I am enclosing these comments to formally mark and praise the efforts of eastern Connecticut-Italian Americans, and to celebrate the brave lives of their ancestors who came to a strange new land, and opened new worlds of opportunity for generations to come.

## KYIV CONFERENCE SPEECH

## HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. SHAYS. Mr. Speaker, I would like to submit the following speech given by International Executive Service Corps [IESC] Executive Vice President Hobart C. Gardiner to the Kyiv Conference in Ukraine. The speech was given to extend IESC's cooperation to Ukraine as it makes the transition to a market economy. I believe Mr. Gardiner's remarks convey the importance of the IESC's efforts throughout the developing world.

AMERICAN VOLUNTEERS—HELPING UKRAINE CHANGE TO A FREE MARKET ECONOMY

(By Hobart C. Gardiner)

I am indeed pleased to be with you. It is always satisfying to be where the action is. Today, the action is here. You have become a sovereign nation and are faced with the exciting challenge of integrating into the world of free nations competing in a global market economy.

I'm here to offer my organization's cooperation to help smooth your transition to a market economy and to help you strengthen your public institutions. That will support the democratization process.

In concrete terms, we first want to help on economic restructuring to create the infrastructure necessary for the successful operation of a demand driven economy. Second, we want to help create effective government structures and services. This is necessary for implementing the pluralistic, democratic initiatives that will reorient bureaucracy to the proper role of government in a free market economy.

Many years ago I lived in Western Canada, where many Ukrainians had settled. There I first learned of your national hero, Taras Shevchenko, and became aware of the many contributions the sons and daughters of Ukraine had made in North America.

Recently, I visited Shevchenko's statute in my nation's capital, Washington, D.C. I should like to quote some lines from his poetry. They reflect his thoughts about allowing foreign influence into Ukraine to help her modernize. Shevchenko had nothing against that, provided it was done altruistically, for the good of the people as a whole. He wrote:

Good! Show her! Lead her in the way!
Let the old mother learn today
How to take care, as Wisdom runs,
Of you, her new enlightened sons!
Show her!

Yes, I want to say some day that I was here when Ukraine gained its independence. More importantly I want to say that my organization cooperated with Ukrainians by showing them how to restructure. I'm sure my organization, the International Executive Service Corps (IESC), would pass muster with Taras Shevchenko because we can help Ukrainians achieve a higher standard of living and an enhanced ability to compete in the global marketplace. Then they will truly enjoy their freedom. As Shevchenko would have wished, learn from the foreigners, but don't give up your soul.

For your information, we have been cooperating with the countries of Central and Eastern Europe in their transition from command to free market economies. And now we shall develop our activities here. We have just completed a project in Kharkiv and plan to open an office here in Kyiv.

Incidentally, the volunteer in that project was a specialist in housing construction. When he completed his assignment, his Ukrainian client thanked him not only for his advice in construction, but for his help in "management, banking, and marketing."

It may also interest you to know that a new vice president at IESC is Richard Shriver. He will have responsibility for our program in Ukraine and the other republics of the newly independent states of the former Soviet Union. Some of you may know him since he has worked and taught here over the past two years. Dick was originally scheduled to be here as speaker and leader of the U.S. delegation. His new responsibilities have caused him to be in other parts of the world at present. He wanted me to be sure to say to you that he is sorry not to be here at this conference, but looks forward to returning soon when we open our office here in Ukraine.

A word about the International Executive Service Corps: we are a private, not-for-profit organization. We operate independently of government. We are not part of the United States State Department. Our board of directors if comprised of private businessmen and women.

Upon request, we provide companies and organizations throughout the developing world and Central and Eastern Europe with volunteer experts. They receive no salary or other forms of compensation. They have no personal financial interest in the services they render. Winston Churchill once said:

"We make a living by what we get; we make a life by what we give."

The typical IESC volunteer is usually a retired executive. He has made his living. Now he makes a life by giving something back to the free enterprise system that gave him so much.

These volunteer experts act as short-term advisors and specialists for organizations that request assistance. They are not typical consultants. They do more than write reports; they roll up their sleeves and show their clients how to do the task more efficiently.

Our volunteers build economic links with nations. We strengthen cultural ties between people. We nurture political connections between democracies. These are important to my country as they would be to any nation. Our experience in other parts of the world shows that there is mutual benefit in providing assistance through the transfer of technology and managerial expertise, in being, to put it simply, a good neighbor.

Now, you may ask with reason, what is a not-for-profit corporation? After all, corporations in a capitalist society are supposed to make a profit. A not-for-profit corporation is one organized to work for some specific aspect of the public welfare. It is supported by contributed funds and is directed by volunteer leadership.

Non-profit organizations are central to American society. With every second American adult serving as a volunteer in the nonprofit sector and spending at least three hours a week in volunteer work, the nonprofits are America's largest employer. They also exemplify and fulfill the fundamental American commitment to responsible citizenship in the community. Our universities, museums, many hospitals, performing arts organizations, churches, synagogues, mosques and social service organizations—even our Olympic team—are all non-profit institutions supported by private funds and volunteer boards of directors.

How ironic it is for me to represent here in Kyiv today a not-for-profit organization whose founding chairman's name, Rockefeller, is so synonymous with capitalism and money. Yet our purpose in being here has nothing to do with making money for ourselves. Our purpose is to respond to Ukraine's specific requests for technology and managerial expertise.

Our goal in Ukraine is simple. It is to speed the growth of democracy by assisting private enterprise, by helping the privatization process, and by assisting public administration at all levels in becoming more efficient and more responsive to the needs of the people. The best hope for peace and worldwide economic well-being, in our opinion, is to help Ukraine and other countries participate and prosper in a new and competitive global economy. That would benefit all of us.

IESC receives funds from three sources: the United States Agency for International Development; private U.S. corporations and foundations, and from the clients we help, based insofar as possible, on their ability to pay the living arrangements and incidental expenses for our volunteers.

At our headquarters, we maintained a computerized register of some 12,000 mostly retired business people. These are men and women who have volunteered to put their career experience, technical skills and managerial abilities to work helping others.

Since IESC began operations, it is estimated that volunteers have contributed more than 2,000 man-years of their time valued at more than 400 million dollars. Stated another way, we have saved the companies and organizations we've served 400 million dollars by supplying skilled volunteers who received no salaries. Thus far, we have completed 14,000 projects in 101 countries.

IESC has 51 overseas offices in 43 countries, including offices in Belgrade, Zagreb, Budapest, Bucharest, Prague, Bratislava, Brno, Riga, Tirana, Sofia, Warsaw, Gdansk, and Krakow. These are staffed by qualified executives who seek out enterprises that can benefit from our services. They also oversee the activities of volunteers and see to their well-being.

For the past two years, as we have been working in Central and Eastern Europe, we have found that a majority of our projects center on management as applied to the needs of a market economy.

Our volunteers undertake such tasks as helping a company computerize its accounting system, developing a marketing plan, or analyzing a company's total operation and showing its managers how to make it more efficient and profitable.

Recently in Hungary, for example, we sent a volunteer to a manufacturer of heavy equipment in Budapest and Kaposvar. The volunteer had been a director of a consulting firm that assisted 600 companies. After observing the operations of the Hungarian company, he realized that the firm had no sales and marketing organization. The company had simply responded to inquiries about its products, and no one was actively promoting sales.

The volunteer designed a strategy which included direct calls on potential customers, the use of selling agents, trade shows, and a campaign of direct mail sales. The company is now acting on those recommendations and is beginning to improve its profitability.

In another case, an IESC volunteer whose career included 34 years with a major international oil company, assisted with the privatization of the state-owned petroleum marketing company in Bulgaria. The company owned 540 gas station outlets and wanted to privatize 300 of them. The volunteer made an in-depth study of 10 of the stations and analyzed the amount each received from sales against that needed for expenses as a means of valuation and setting a price for each outlet. He showed the client several alternative methods of achieving private ownership of the stations. The Bulgarian client thanked the volunteer for his "substantial contributions and very useful advice—which will be followed."

In the Czech Republic, one of our volunteers was asked to provide a business plan for the country's sole producer of pediatric vaccines, diagnostic chemicals and allergens as it prepared for privatization. The volunteer drew upon his 30-years' experience in the pharmaceutical business in conducting a complete analysis of the company in order to provide factual records and financial figures. The data was provided to parties interested in forming a joint venture. As a result, the Czech enterprise now has the opportunity to be privatized by forming a joint venture with a foreign firm. The foreign partner will help provide new facilities and equipment, improving production and export sales. This venture will be important to health care in Czechoslovakia which cannot afford to import high cost vaccines and blood derivatives.

The Polish Ministry of Privatization asked us to survey a number of companies being considered for privatization. We mobilized five teams of experts to take a close look at the companies, to identify their most critical needs, and to secure project agreements for technical assistance preparing individual firms for transition to the private sector. Our teams visited 170 enterprises throughout Poland and got requests for 60 future projects. The response has been so successful that one volunteer remained in Poland to provide on-going support to the privatization process.

In Hungary, one of our volunteers was asked to assist in the privatization of a major agricultural products and equipment company. The volunteer helped reorganize and modernize the company. He was able to locate several interested U.S. farm equipment manufacturers and submit proposals for the client company to represent their product lines in Hungary. The client commented that the volunteer "provided outstanding assistance in working out a complete company proposal for privatization" and that "it will follow his advice on how and which direction to develop the structure of the company."

Of special import to Ukraine may be IESC's program of multiple business services which includes trade and investment activities.

These include informational studies on U.S. markets for specific products along with direct contact with potential U.S. buyers, locating sources of new and used equipment, and identifying possible joint venture or coventure partners. Coventures can include licensing existing technology to client enterprises. We also conduct industry assessment surveys, assist clients in presenting their products to U.S. importers, and help formulate plans for success in the free market. These activities are all in conjunction with technical assistance programs.

For the past 18 months IESC has conducted such trade and investment activities in Central and Eastern Europe. We are now planning to offer these services to companies in Ukraine.

Here are two recent examples of what our trade and investment activities can accomplish.

In Czechoslovakia, a volunteer helped a textile company establish a connection with U.S. companies. He developed a list of American textile firms to whom he sent samples of fiberglass, threads, decorative fabrics and linings to 12 U.S. companies. Recently, one of the companies placed a substantial order for some of the Czech company's products and paid for them in hard currency. The Czechs liked that!

Last year, IESC searched for a partner to collaborate with the East Europe Investment Corporation in manufacturing prefabricated houses in Bulgaria. The wood frame houses would use Bulgarian components and would be sold in Bulgaria and abroad. Through intensive market research, we identified several potential joint venture partners with whom the Bulgarians are not in negotiation.

We believe Ukraine has great economic potential about which little is known. We'd like to help you change that. We would like to suggest some areas where we can help. In all cases, we would complement, not compete with, assistance you are receiving from other organizations.

We have a long and successful history of providing technical and managerial assistance to different types of industries throughout the world. Among the benefits listed by our clients as resulting from our help are increased and better quality production, creation of new jobs, more efficient management, and increased sales—including exports.

Based on our experience in Central and Eastern Europe, and elsewhere, we anticipate assisting your manufacturing facilities in modernizing both plant and products to stimulate exports. In addition to manufacturing technology and quality management, we will also offer our expertise in international trade and marketing.

IESC volunteer executives have operated at every level of business and public administration and in every kind of business. They have dealt with the narrowest of technical problems to the broadest of management concepts. They have improved food production, food distribution and processing and health standards. They have upgraded investment and banking practices, construction methods and transportation systems. They have enhanced manufacturing processes and marketing programs, government and educational services, communications media and tourist facilities.

Volunteer executives have been assigned to resource-building and job-making enterprises of great potential impact on local economies and have been guided by one overriding precept: they are not to try to run the organization or business but to help the client management learn how to carry on by itself. To cite an old Chinese proverb,

"Give a man a fish and you feed him for a day; teach him to fish and you feed him for a lifetime."

In effect, the IESC volunteer executive is a teacher of management, using the case-study method made famous by the Harvard Business School, with the client organization as the case.

IESC volunteers contribute their skills because they truly believe in the work they are doing. They get a special satisfaction in helping companies (or organizations) become more effective and productive. Service with IESC enables the volunteers to "wear out rather than rust out." For most this is true self-fulfillment.

Our recruiters—the men and women who select the volunteer for a specific project—are themselves volunteers whose past careers

in business and public administration have been both successful and eminent. Their education and experience are combined with an urge to pay back their country and the free enterprise system in which they believe so deeply. They find in IESC an outlet for their energy and expertise and an opportunity to help others in our increasing interdependent world.

Peter F. Drucker, preeminent business and management writer of our time, also one of IESC's founding board members, emphasizes that not-for-profit organizations do not base their strategy on money nor do they make it the center of their plans. A commercial business starts its planning with financial returns; a non-profit starts with the performance of its mission. A non-profit needs skillful management even more than business does, precisely because it lacks the discipline of the bottom line, the need for a profit. Volunteers must get far greater satisfaction from their accomplishments and make a greater contribution precisely because they do not get a paycheck.

IESC's mission here in Ukraine, however, is not simply transferring technology and managerial expertise to the private and public sector during economic transition. There is another even more critical issue and management challenge. People emerging from totalitarian government and command economies lack understanding of the meaning of free enterprise and a market economy, something we've learned in the past year during our activities in Central and Eastern Europe. We have to help create the right mindset.

For example, Drucker wrote about an American marketing executive who recently returned to the Czech provincial city where she had been born and raised. She reports:

"I was immediately asked to hold a seminar on marketing for the top people in the city's five big factories. I started out by telling them how our company in the U.S. operates. We have 2500 employees and are number three in a small but highly competitive and fast-moving market. I soon realized that I made no sense to my audience.

So I stopped and said: 'I have a feeling that you define a competitive market as one in which prices are kept high enough for every competitor to make a good profit.'

'That's exactly right,' they all said. 'After all, in a market economy a business has to make a profit.'

No, I said, 'in a market economy it has to EARN a profit.'"

Very few people, if any, in Central Europe still believe in complete socialism as a political, social, economic or moral system. They want political freedom. They want the incomes and the goods that they know only a market economy can provide. But do they yet know—and how could they possibly know—that in a market economy there is no "profit," only "profit and loss"—no "reward," but only "risk and reward," and that freedom is not just the absence of restraint, but requires the rule of law, self-discipline and responsibility. The profit must be earned * * * and not everyone earns a profit. That's true in the United States as well as elsewhere. The latest business figures for the United States show that approximately 88,000 firms failed in 1991.

Ukrainian leaders in government and business have to help mold a new and positive mindset and set an example of optimism. IESC can't pass on a changed mindset to Ukrainians as though it were a baton in a track race. We'll need the help and example of your leaders.

I live in a small town near the Sikorsky Aircraft factory in Stratford, Connecticut. Igor Sikorsky, a native son of Kyiv, lived a life of exile in the country nearby. As you may know, his three greatest aeronautical achievements were the multi-motored airplane, the big amphibious flying boat, and the helicopter. Igor Sikorsky wrote more than a chapter in the history of aviation. He wrote a chapter in the history of freedom. Let me tell you what I've learned about him from his son. When Mr. Sikorsky first began his free enterprise in America in the 1920's, he had no money. The famous composer and pianist Sergei Rachmaninoff gave him financial support. Aviation was a dangerous activity back then. But Sikorsky said the greatest danger in aviation was starvation. When the task looked impossible and people got discouraged, Igor Sikorsky said,

"After all, we designed and built the helicopter because we didn't know it couldn't be done."

He succeeded not only because he was brilliant but because he was essentially optimistic and hopeful. He certainly took risks. He enjoyed the freedom to make mistakes. He had a keen awareness of the importance, even the magnificence, of people's capacity to transform wisdom, will, and work into achievement. He even insisted that radical socialism would one day disappear. He said:

"The freedom of the individual is the spark that moves mankind ahead."

A pioneer helicopter pilot once said,

"Back of our efforts stood the unswerving faith of Mr. Sikorsky, I believe that his success can be charged to his calm, forceful, sometimes dogged confidence, coupled with sound engineering and intuitive judgment."

Not a bad description of how Ukraine's government and business leaders should act today!

I'm not a believer in miracles. But I feel certain that with your leadership and courage you can transform your country and bring it to new levels of productivity and prosperity. We at IESC are proud to be a part of your campaign.

We are totally in sympathy with Ukrainians' desire to build a nation where all people, regardless of ethnic background, religion, education or economic status are equal under the law and have equal opportunity. That is something dear to us and that we strive for in America. That is why I'm here today—to assure you that we are ready to roll up our sleeves and work with you toward that success.

Let us take as our motto Shevchenko's immortal words, engraved on his monument in our capital:

"I CHUZHOMU NAUCHAYTES SVOHO NE TSURAYTES!" * * * Read, learn, and study others but do not forsake your own.

Thank you.

## RUST DECISION

### HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. TAUZIN. Mr. Speaker, This is not a free speech issue. The free speech question was addressed and answered finally by the Supreme Court in the Rust decision.

And the Rust decision was not handed down by a court friendly to the pro-life cause; that is, friendly to unborn children and their mothers. On the contrary, two of the members of the majority in Rust—Associate Justices Kennedy and Souter—sided this year with the majority in Casey to sustain and reinforce the essential holding in Roe v. Wade: the so-called right to an abortion.

So despite the shouting and haranguing by those groups which have spent millions of dollars and 4 years trying to overturn the regulations, this is not a free speech issue.

It is a "program goals" issue. And the goal of the Title X program is family planning, whether that planning be to prevent or to achieve a pregnancy. And as the program was set up, abortion is not, nor has it ever been, considered family planning. To quote a 1963 Planned Parenthood brochure:

What is birth control? Is it an abortion?

Definitely not, an abortion kills the life of a baby after it has begun * * * Birth control merely postpones the beginning of life.

Let me use as an example of another program to bring out further what I mean by program goals.

The Women, Infants and Children, or WIC program gives Federal assistance to help provide for the nutritional needs of pregnant women, nursing mothers, and young children. The program goals are obvious: to provide vouchers to women so that they can buy food which will be beneficial to them and to their unborn and newborn children.

But these vouchers cannot be used to purchase any food. Milk? Yes. Eggs? Yes. Cheese? Yes. Infant formula? Yes. Alcohol? No. Why not? It's a beverage and it is certainly legal for women, including pregnant women, to consume alcoholic beverages. But the Federal Government has made the decision that because alcohol consumption by pregnant women places their unborn children at risk for fetal alcohol syndrome, it is not appropriate to let women use WIC program money to buy beer, wine, or other liquors.

Does this mean we are discriminating against poor pregnant women because rich pregnant women can afford to buy wine so that they can have a small glass at dinner occasionally? I doubt any Member here would make that argument. Rather, we understand that every Federal program has program goals and program limitations.

The goal of WIC is nutritional assistance, and wine is not considered an appropriate nutritional beverage. The goal of Title X is family planning. And abortion is not family planning.

## U.S. HARNESS WRITERS ASSOCIATION AWARDS CEREMONY

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. GILMAN. Mr. Speaker, on Sunday, November 15, 1992, the Monticello-Goshen Chapter of the U.S. Harness Writers Association is holding its 34th annual awards banquet. Several outstanding contributors to the sport of harness racing will be honored. That event promises to be an outstanding gathering of many of the giants of this sport.

Trotting races, our Nation's oldest sport, began in my Congressional District in 1838.

The historic track in Goshen, N.Y. was built 7 years before the first baseball game was played; and only 1 year after Martin Van Buren, our Nation's eighth president, had been inaugurated. The fine contributors to this historic American tradition who are being honored at this year's annual awards banquet certainly deserve our heartiest congratulations. Among those being honored is Elbridge T. Gerry, Sr.

Elbridge T. Gerry, Sr. is the great-great-grandson of Elbridge Gerry who was a signor of the Declaration of Independence, Governor of Massachusetts and, later, Vice President of the United States.

Elbridge T. Gerry, Sr.'s first accomplishment in equine sports came in 1936 when he and the other members of the talented U.S. polo team captured the Westchester Cup from their rival English team. Later, Mr. Gerry and his uncle E.R. Harriman bred and raised many champions at their famous Arden Homestead Stables. Mr. Gerry's horse, Titan Hanover, won the 1945 Hambletonian Stake while Mr. Gerry was serving overseas in World War II.

In addition to owning many champion horses, Mr. Gerry also served as a member of the board of the Hambletonian Society, the treasurer of the U.S. Trotting Association, the chairman of New York State's Harness Racing Commission, and former vice-president of the Saratoga Raceway. He was a founder, and is now president, of the Goshen Trotting Horse Museum which is home to the Trotter Hall of Fame. In 1976, Mr. Gerry was elected as a living hall of famer by the U.S. Harness Writers Association.

Mr. Speaker, Elbridge T. Gerry, Sr. is highly deserving of the lifetime achievement award that he will receive on November 15; a long overdue award.

Mr. Speaker, I invite our colleagues to join in extending our heartiest congratulations to this distinguished award recipient. He has made outstanding contributions to the American tradition of harness racing; and we as Americans should duly recognize their significant accomplishments.

## IN ACKNOWLEDGEMENT OF THE WATTS HEALTH FOUNDATION, INC. 25TH ANNIVERSARY

### HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Ms. WATERS. Mr. Speaker, history has shown us that out of despair, destruction, and tragedy are born new beginnings, hope, and progress. From the smoldering ashes of the 1965 Watts rebellion rose the Watts Health Foundation, Inc.—a new beginning which brought hope and progress to a devastated community. This year marks the 25th anniversary of the Watts Health Foundation, Inc. The foundation will mark this occasion with special events in September and October 1992. The celebration will recognize the commitment and contributions Watts Health Foundation has made to health care delivery in southern California, particularly in the Watts community.

The Watts Health Foundation was founded in 1967 to provide low cost, high quality health care to the residents of Watts in the aftermath of the 1965 rebellion. Over the years, the foundation has demonstrated remarkable growth. It started as a demonstration health center project serving only the community of Watts. It has become a nationally recognized health enterprise offering a broad range of innovative, cost effective, and high quality health care services to residents of southern California and serves as an umbrella organization for approximately 28 health programs and organizations. Major components include the Watts Health Center which serves over 250,000 people annually, making it one of the largest community health centers in the country, and United Health Plan, an 80,000 plus member federally qualified health maintenance organization and the second largest Medicaid managed care program in California.

Scheduled activities to highlight the foundation's 25 years of service include: A reunion prayer breakfast, September 19, for all past and present employees and supporters; the 13th annual 5K run and community walk, September 26, to encourage healthy lifestyle behaviors by stressing the importance of preventive and primary care, exercise, nutrition, stress reduction, etc.; the 25th anniversary gala dinner, October 3, "Spirit of Commitment," the foundation's annual scholarship fundraiser will present college scholarships to local high school students; and, the third annual Third World Arts Festival, October 10–12, will highlight cultural diversity through understanding and acknowledging the contributions of all people, regardless of color or national origin.

The Watts Health Foundation will continue to commemorate its history and commitment by mobilizing local, State, and national attention around crucial inner-city urban health issues. There continues to be an absence of a fundamental commitment to provide basic access to health care service in this country, especially to urban areas. The national and statewide debate on the importance of health care reform must center on those who still do not have health access, those who need and cannot receive medical attention through mainstream systems and those who require, but cannot afford, preventive health care. The foundation is committed to ensuring the inclusion of inner-city urban issues and the discussion and development of any national and/or statewide health policy.

Watts Health Foundation is a testament to the kind of moral and social assistance the people of the United States have a right to acquire. The foundation serves an indispensable function to the medically underserved, particularly low-income, uninsured and under-insured individuals and families living in southern California. The foundation's commitment to providing quality health services to poor and underserved communities is the example by which future programs should be fashioned.

On behalf of the 102d Congress, I applaud the foundation for its distinguished 25-year legacy of service to medically underserved populations in California and for the national model it represents and I commend Watts Health Foundation for its "Spirit of Commitment," continued dedication and work to make the availability of health care a reality for every American citizen.

## TRIBUTE TO FRANK P. BRIGGS

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. SKELTON. Mr. Speaker, when Senator Harry Truman was elected Vice-President, State Senator Frank P. Briggs was appointed to take his place in the U.S. Senate. I had the privilege of meeting Senator Briggs when I was a teenager in the summer of 1945. Through the years, Senator Briggs has made an outstanding contribution to Missouri and it was my privilege to represent him for a period of time when I served in the Missouri State Senate. Senator Briggs died September 23, at the age of 98.

A native of Armstrong, MO, Briggs attended Central College, and received a bachelor's degree in journalism from the University of Missouri-Columbia in 1915. He served as mayor of Macon from 1930 to 1933 and later was elected to the Missouri Senate and was reelected four times. After serving in the U.S. Senate from 1945 to 1947, Briggs served on the Missouri Conservation Commission until 1961. In 1961, he was appointed assistant secretary of the Interior Department for Fish and Wildlife and was editor and publisher of the Macon Chronicle Herald until 1973.

In addition to being a member of the First Baptist Church and the young men's Sunday school class in Macon, Briggs was a member of the National Press Club and an active part of the Missouri Grand Masonic Lodge for a good part of his life.

Briggs is survived by his wife Catherine; son, Tom; two daughters, Betty Briggs, and Ruth Bratek; a sister, Margaret Bullock; 11 grandchildren; and 14 great-grandchildren.

Frank P. Briggs served Missouri with pride and distinction, and his contribution to the State and its people will long be remembered.

## HAPPY BIRTHDAY TO TAIWAN

### HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. SANGMEISTER. Mr. Speaker, it is my honor and privilege to join my colleagues in wishing the Republic of China on Taiwan a Happy 81st Birthday. There is no question that the Republic of China on Taiwan has come a long way from its founding 81 years ago. Today, Taiwan is our sixth largest trading partner and a major economic power in the world. May God bless the leaders and the good people on Taiwan. May they continue to prosper and flourish in the next 81 years and beyond.

## END DISCRIMINATION AGAINST GAY MEN AND LESBIANS NOW

### HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. KOSTMAYER. Mr. Speaker, today, I am inserting into the RECORD the third part of a

comprehensive study that the Philadelphia Lesbian and Gay Task Force released 2 days ago.

Titled "Discrimination and Violence Against Lesbian Women and Gay Men in Philadelphia and the Commonwealth of Pennsylvania," the study represents the largest survey of its kind in the United States; 2,600 gay men and lesbians from Philadelphia, its surrounding suburbs, and 35 counties throughout Pennsylvania report their experiences of discrimination, harassment, and violence.

Although not all Members of Congress will agree with the study's recommendations and conclusions, I feel that the Philadelphia Lesbian and Gay Task Force has made an important contribution to the policy debate regarding the desperate need for civil rights protections for the millions of people who encounter discrimination based on their sexual orientation. I commend the Task Force for undertaking such a worthy project, and I urge all of my colleagues to read the study.

The third installment of the study follows:

ANTI-LESBIAN AND ANTI-GAY VIOLENCE AND HARASSMENT

We now turn to survey results concerning anti-lesbian/gay violence and harassment. It should be noted at the outset that discrimination and violence represent very different forms of victimization. While discrimination does not require a face-to-face encounter of perpetrator and victim, violence involves a direct confrontation. The bigotry that motivates anti-lesbian/gay discrimination can often be hidden behind bureaucratic maneuvering while anti-lesbian/gay violence involves an active expression of hatred. The impact on the victim can be equally severe for the two forms of victimization, but the actions of the perpetrator are usually much more direct in the latter case. It should also be noted that, as in the case of discrimination, our questions specifically requested the respondents to report verbal or physical attacks that were directed against them by non-gay individuals because of their sexual orientation.

VIOLENCE AND HARASSMENT

Survey respondents were asked about acts of violence and harassment that they suffered because of their sexual orientation in the previous 12 months and over the course of their lifetime. This dual focus permits us to examine both annual and lifetime levels of victimization, and to make comparisons with our 1986-87 survey data.

Table 6A gives the rates of violence and harassment reported for our Philadelphia sample for both time periods, broken down by the respondents' race and gender. The final row in Table 6A ("Any Violence") indicates percentages of respondents who experienced at least one form of criminal violence in the relevant time period. Verbal abuse is excluded from this summary variable, as are "crimes against property," because all of the remaining categories included represent interpersonal victimizations that are clear violations of the Pennsylvania Crime Code. Also excluded are reported incidents of abuse—verbal, physical or property abuse that were AIDS-related (this would be double-counting). The "Any Violence" category, therefore, indicates percentages of individuals who experienced criminal violence in the time period indicated that is at least as serious as being threatened with physical harm.

Table 6B gives the results for the Philadelphia, suburban and Pennsylvania samples for these same categories of violence and harassment, for the previous 12 months and for the respondent's lifetimes. Table 7 shows the rates of violent victimization of our 1991-92 respondents in comparison with the responses given by our 1986-87 sample.

Verbal abuse is a nearly universal experience for gay men and almost as frequent for lesbian women. Approximately nine out of ten of the gay men in our sample and three quarters of the lesbian women have been the targets of verbal abuse at some point because of their sexual orientation. In the previous 12 months two thirds of the Philadelphia men and half of the women experienced verbal abuse, and the rates are substantially the same for the Pennsylvania sample, although suburban respondents report a somewhat lower frequency.

Criminal victimization includes less serious acts such as being threatened and chased, as well as more serious physical attacks: being punched, hit, beaten or assaulted with a weapon. One quarter of the gay men and one sixth of the lesbian women in our Philadelphia sample have been the victims of criminal violence in the past 12 months, and these rates are about 6 or 7 times higher than the rates of criminal victimization for the U.S. adult population as determined by the Department of Justice (1991). The rates for suburban residents are lower than those for Philadelphia residents, but those reported by other Pennsylvanian men are the same as those reported by Philadelphia men.

Comparing the results of the current survey with our 1986-87 data shows some areas of improvement (Table 7). While the rates of less severe victimization for Philadelphia lesbian women are essentially the same as in 1986-87, for Philadelphia gay men the rate of reported threats and chases is substantially lower than four years ago. However, the rates of more serious violence have not diminished, and a higher proportion of Philadelphia gay men report having been the victims of assault at some point in their lifetime.[1] The decrease in the rate of less serious violence compared to the earlier study can also be seen in the suburban and Pennsylvania samples, for both men and women, but the rates of assault are closer to those found in the 1986-study.

African American men report higher annual rates of violent victimization (29%) than do white men (22 percent), and the difference is particularly large for the more serious incidents (13 percent vs 8 percent). However, for lifetime violent victimization, white men and women report higher rates than do African American respondents. Also notable is the fact that younger African American women report higher lifetime levels of victimization than do older women (white women at all age levels report higher levels of victimization than do African Americans), whereas among both white and African American male respondents it is the older group who report higher lifetime levels of violent victimization.

AIDS-RELATED ABUSE

AIDS has had a tremendous impact on the gay and lesbian community. Many lives have been lost to this disease and many more will die. However, the negative impact of AIDS has been exacerbated by the actions of an often ill-informed public and even some public officials. People with AIDS, people with ARC (AIDS-Related Conditions) and people with a positive HIV (Human Immunodeficiency Virus) status have been treated as pariahs, despite the relative incommunicability of AIDS. Many have experienced discrimination in employment, housing insurance coverage, parental rights, and access to social and medical services. Furthermore, because of the misplacement of blame onto the gay community for AIDS, there has been an increase in anti-gay and anti-lesbian violence. AIDS phobia may serve as an excuse to release hostilities against lesbian and gay people that might otherwise have been held in check.

In addition to asking our respondents about incidents of anti-gay/lesbian violence and harassment we also asked whether in the previous 12 months or over the course of their lifetime they had experienced verbal or physical abuse or vandalism by non-gay people that was AIDS-related, such as being called "AIDS killer" while being attacked. In our 1986-87 study we found that 1 percent of the women and 13 percent of the men reported that they experienced violence that was specifically AIDS-related. In the present study, as shown in Tables 6A-B, the numbers of lesbian women and gay men reporting AIDS-related abuse have increased.

Women continue to report lower levels of AIDS-related abuse, but approximately 5 percent of Philadelphia and suburban women say this has occurred to them in the previous 12 months, and about 7 percent report some such experience in their lifetime. For women outside Philadelphia and its suburban counties the rates of AIDS-related abuse are much higher, 8 percent in the past year and 13 percent ever.

As striking as the figures are for lesbian women, the figures for gay men are much more dramatic. In the suburbs and around the state, between 10 and 14 percent of male respondents report AIDS-related abuse in the past year, with somewhat higher numbers (15 percent and 18 percent) for lifetime experiences. Within Philadelphia the numbers are even higher, particularly for African-Americans. Among white men 16 percent report AIDS-related abuse in the past year, and one-quarter of them have suffered such incidents in their lifetimes. For African-American men the rate in the past year is 23 percent and the lifetime rate is 29 percent. It is important to note that neither age nor education seems to affect the rate of AIDS-related abuse for African-American men: 27 percent of African-American male respondents aged 15 to 28 report such incidents in the past year, but so do 26 percent of respondents aged 37 to 80. Similarly, 26 percent of those with no more than a high school education report AIDS-related abuse in the past year, and so do 28 percent of those with post-graduate education (among white men there is a slight tendency for the younger and the less educated to report higher levels of AIDS-related abuse).

POLICE HARASSMENT AND ABUSE

Lesbian and gay Pennsylvanians do not necessarily feel that they can trust the police to perform their sworn duty to protect the rights and respect the dignity of all citizens. As in our previous surveys we asked our respondents whether they had been harassed or abused by police officers because of their sexual orientation, either in the past 12 months or at any point in their lifetime. Table 8A gives the responses of our 1991-92 Philadelphia respondents by race and gender,

[1] As Kevin Berrill has noted, information on homicides cannot be obtained through surveys of victims, thus forcing us to leave out this most serious form of anti-lesbian/gay violence. The National Gay and Lesbian Task Force has received increasing numbers of reports of such homicides in the past seven years, and experts agree that anti-gay murders are often marked by extreme brutality (Berrill, 1992:24-5).

and Table 8B shows the responses in both the 1986–87 and 1991–92 surveys in all three geographical categories, by gender.

As shown in the tables, 11 percent of the men and 5 percent of the women in our Philadelphia sample report harassment or abuse at the hands of the police in the past 12 months; nearly one-quarter of the men and 13 percent of the women have experienced police abuse at some point in their lives. These figures are almost identical to those found in our previous Philadelphia sample in 1986–87. In the case of the 1991–92 Philadelphia men there is a slight decrease for white men, which is outweighed here by the higher proportion of African American respondents in the sample, as African American men have a much higher rate of victimization by the police. Overall, it is disheartening to see that these rates have not substantially declined in the past four years despite efforts to sensitize the police to the need to respect the rights of all citizens, regardless of their sexual orientation.

It should be noted that our question regarding police abuse was not limited to physical abuse; verbal harassment could also be included. This also holds true for our subsequent questions concerning abuse by classmates, teachers or other school officials, and by family members. However, the police abuse variable and these other variables are intended to indicate levels of victimization of any sort by authority figures and significant others. While anti-lesbian/gay verbal abuse is not necessarily illegal, it can be an especially traumatic experience when it is inflicted by a police officer, a relative, or a teacher. It should also be noted that, while verbal abuse by police officers and teachers might not lead to criminal charges, it should lead to disciplinary action for unprofessional behavior.

Unlike our previous study, in this case we are able to examine patterns of police abuse in relation to the race of our Philadelphia sample respondents. While African American females are somewhat less likely to report such abuse than are white females, among males the differences are striking: African American males are far more likely than are white males to report abuse at the hands of the police: one fifth of the African American men report such abuse in the past 12 months and one third report being abused by police at some point in their life. Younger and less educated African American men are more likely to report suffering police abuse in the past 12 months than are their older and more educated counterparts. However, when we look at lifetime experiences we find that more educated African-American gay men are at least as likely as the less educated, and older African American men more likely than the younger, to have been the victims of police abuse because of their sexual orientation.

Looking at the responses from our suburban and Pennsylvania participants (Table 8B) we see lower rates of police abuse reported by males in the 1991–92 suburban sample compared to the 1986–87 sample, both in the previous 12 months and over their lifetimes. Among the respondents drawn from the rest of Pennsylvania, we find rates of police abuse reported by females in 1991–92 that are higher than those found in 1986–87, while for males there is a decrease from the earlier levels. Overall, the levels of abuse by police reported by Pennsylvania residents are strikingly similar to those reported by Philadelphia residents, and higher than those reported by suburban county residents.

REPORTING VIOLENCE AND HARASSMENT TO THE POLICE

Given the data in the previous section, we would have reason to expect that lesbian and gay citizens might be reluctant to report attacks to the police. Our previous surveys had shown that lesbian and gay Philadelphians were close to the national average in reporting victimization to the police, and that Pennsylvanians outside Philadelphia were far less likely to do so. In our current survey we asked our respondents if they had experienced anti-gay/lesbian violence, threats or harassment that could have been reported to the police; if they answered that they had, we asked how many of these incidents they actually reported. For those who reported at least some incidents we asked how they would rate the overall performance of the police. Tables 9A–B give the responses to these questions.

In contrast to our 1986–87 survey a far higher proportion of Philadelphia lesbian women and gay men say that they have reported no incidents to the police, and a much lower percent say they have reported all such incidents (Table 9B). Whereas 52 percent of the Philadelphia females in 1986–7 said they had reported no incidents, in the present sample 72 percent say this (the corresponding figures for males are 56 percent and 62 percent). In 1986–87 22 percent of the females and 24 percent of the males said they reported all incidents to the police, this time the figures were 10 percent and 11 percent, less than half the previous rate. Looking within the Philadelphia sample, Table 9A shows that the rates of reporting incidents to the police is not markedly different across racial groups, although white women have lower levels of reporting than either African American women or any of the men.

The 1986–87 survey showed that Pennsylvanians residing outside of Philadelphia were very unlikely to report attacks to the police. The present survey, with a dramatically larger sample, now divided into the four suburban counties and the rest of the Commonwealth, shows a somewhat more complex pattern. As shown in Table 9B, women in both samples are similar to Philadelphia women in their reluctance to report incidents to the police, while among the men suburban men are close to Philadelphia men and those in the Pennsylvania sample are the most likely to report at least some incidents. Yet, overall, it must be noted that only 15 percent at most report all incidents, and a clear majority of our respondents say that they have reported no incidents to the police.

What happens when incidents are reported? Here the results are not encouraging. In our 1986–87 study we found that more than a third of our Philadelphia sample and 60 percent of our Pennsylvania respondents rated the police performance as good or excellent; at the same time, a third of Philadelphia males and 18 percent of females rated the police poor, for Pennsylvanians the figures were 25 percent and 20 percent, respectively. In the present, much larger sample, the police do not receive such high marks. Among the 1991–92 Philadelphia sample only a fifth of the women and a quarter of the men rate police performance as good or excellent and nearly half rate it as poor. The patterns are most striking when the race of the respondent is taken into account. Approximately two-thirds of African Americans give the police poor marks; no African American women and only 18 percent of the men rate them good or excellent. White men are the least likely to rate the police as poor (37 percent) and the most likely to rate them good or excellent (30 percent).

Outside of Philadelphia we find a different gender-related pattern. In both the suburban and the Pennsylvania samples women are more likely than are the men to give the police good ratings, although never more than 35 percent rate them good or excellent. Men in the Pennsylvania sample, regardless of race, give the same sort of ratings as African American males in Philadelphia. Thus, while these Pennsylvanian men may be somewhat more likely than their suburban or Philadelphia counterparts to report incidents to the police, they are less likely to give a favorable rating of the police performance in response.

The responses to these questions underscore the importance of improving police training and procedures in Philadelphia and around the Commonwealth to increase police responsiveness to lesbian and gay citizens.

ABUSE BY CLASSMATES AND SCHOOL OFFICIALS

Respondents were asked whether they had experienced verbal or physical abuse from classmates, or from teachers, principals or counselors in junior high, high school or college, because of their sexual orientation. Tables 10A–B show the responses of Philadelphia residents, by race and gender, and for all respondents, by location and gender.

In our previous survey we found that one third of Philadelphia lesbian women and two-thirds of the gay men had experienced harassment and/or violence at some point in their schooling because of their sexual orientation; the rates were even higher (40 percent and 72 percent) for respondents outside Philadelphia. In the present study the figures are slightly lower for Philadelphia residents: 30 percent of women and 57 percent of men. More notably, this time the respondents outside Philadelphia report essentially the same level of harassment as do Philadelphians, which may be a sign that our markedly larger sample is more representative. Overall, between one quarter and one third of all lesbian women report having been harassed by classmates or school employees, and so do nearly three fifths of all gay men.

While it is no surprise that many more respondents report harassment from classmates than from teachers, nevertheless approximately 15 percent of all gay male respondents report having been abused by teachers or other school officials (Table 10B). There are also some disturbing patterns relating to the age of the respondent. Within the Philadelphia sample, among all females and among white males the reported rates of abuse by classmates are notably higher for those respondents aged 15 to 28 than for older respondents, which suggests that the problem of harassment in schools is getting worse. This difference may be due to the fact that more lesbian and gay people are coming out at an earlier age and thus becoming more visible targets for harassment in the schools. The rates of reported abuse by school officials are markedly higher for younger women and for younger African American males; for white males they are high regardless of the respondent's age.

ABUSE BY FAMILY MEMBERS

Survey participants were asked whether they ever experienced verbal or physical abuse by family members because of their sexual orientation. In our previous study we found that more than a quarter of the lesbian women and approximately one fifth of the gay men reported some form of abuse from relatives. In the present study we continue to find high rates of reported abuse by

family members, but it no longer seems as clear that women are victimized more than men.

Tables 10A–B show the responses of our samples within Philadelphia and elsewhere in Pennsylvania. Overall, women are somewhat more likely to report abuse by family members, but the difference is mostly among those residing outside Philadelphia and its suburbs. Within Philadelphia the differences that stand out are not between men and women but between African American and white respondents. Among African American respondents 38 percent of the women and 44 percent of the men report being abused by family members because of their sexual orientation; for white respondents the figures are 30 percent and 26 percent, respectively. African American males are the only group in which the younger respondents are less likely than the older ones to report family abuse, but at 43 percent the rate for this category is still highest for any of the younger respondents.

## TESTIMONY ON THE INDEPENDENT COUNSEL STATUTE

### HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. BALLENGER. Mr. Speaker, I would like to encourage my colleagues to read the thoughtful testimony of constitutional scholar Stephen Wolf who testified before the Republican Study Committee on June 17 of this year on the Independent Counsel statute.

Mr. Wolf is professor of political science at Buena Vista College in Stormlake, IA. His statement follows.

TESTIMONY BY STEPHEN WOLF ON THE REAUTHORIZATION OF THE INDEPENDENT COUNSEL STATUTE

Mr. Chairman and Members of the House Republican Study Committee, It is my distinct pleasure to appear before you this morning to testify about the re-authorization of the independent counsel statute. As you know, today marks the twentieth anniversary of the break-in at the Watergate Office Building. This incident eventually precipitated the resignation of President Nixon, and tangentially led to the enactment of the independent counsel statute. Yesterday, the Office of Independent Counsel Lawrence Walsh obtained an indictment against former Secretary of Defense Caspar Weinberger just one day before the expiration of the five-year statute of limitations in his case. These hearings fortuitously offer you the opportunity to evaluate the propriety of the actions of the independent counsel in this case, and to re-evaluate the utility of the independent counsel statute under which he operates. I hope that six months from now, when the independent counsel statute is scheduled to expire, we will be able to look back upon this incident and these hearings as the events which precipitated the termination of the independent counsel statute.

Under the provisions of the independent counsel statute, a number of serious restrictions have been place upon the authority of the Attorney General to investigate allegations of misconduct against members of the executive branch. Whenever the Attorney General receives allegations of misconduct against certain high-level officials in the executive branch, he must apply to a Special Division of the U.S. Court of Appeals for the D.C. Circuit for the appointment of an independent counsel unless he can conclude within ninety days and without his normal powers of investigation that there are no reasonable grounds for further investigation. Once an independent counsel is appointed and his jurisdiction is defined by the Special Division of the Court, neither the Attorney General nor the Court have any effective authority to supervise his activities. For example, in the light of yesterday's developments it is important to note that an independent counsel is not obligated to follow the Department of Justice guidelines for the conduct of investigations and prosecutions, and his failure to follow these guidelines does not constitute grounds for removing him.[1] An independent counsel may only be removed from office by the Attorney General for good cause, and even then the Attorney General must report his reasons for removing the independent counsel to the House and Senate Judiciary Committees, and to the U.S. District Court for the District of Columbia which may order the reinstatement of the dismissed independent counsel.

These statutory restrictions upon the Attorney General's authority to appoint, supervise, and remove the independent counsels which makes them independent from the executive branch, also makes them unaccountable for the exercise of their investigatory and prosecutorial discretion. As the previous witnesses have demonstrated in their testimony, this lack of accountability has encouraged some independent counsels to go beyond the boundaries of their investigatory and prosecutorial jurisdiction, to ignore Department of Justice guidelines for the conduct of investigations and prosecutions, to interpret criminal and civil statutes in novel and abusive ways, and to spend significantly more money on their investigations or prosecutions than comparable investigations or prosecutions conducted by the Department of Justice. Such abuses of investigatory and prosecutorial discretion deny to the targets of such investigations and prosecutions the equal application of the law, and squander precious financial resources on investigations and prosecutions of dubious merit or public benefit.

But the most important problem with the independent counsel statute is not that it leaves the independent counsels unaccountable for the exercise of their investigatory and prosecutorial discretion, but that it is an example of, and a means for maintaining, a system through which elected and appointed officials—and especially members of Congress—are able to evade public accountability for the consequences of their policies and actions. First, the statute is designed to allow the Congress to force the executive branch to trigger the provisions of the statute against itself without requiring the Congress to act as a deliberative body, and to take an official action for which it can be held publicly accountable. This is done by requiring the Attorney General to automatically seek the appointment of an independent counsel whenever he is unable to conclude that there are no reasonable grounds for further investigation. Secondly, the statute is also designed to allow individual committees of Congress, rather than the entire Congress acting as a deliberative body, to effectively trigger the provisions of the statute against the executive branch. This is done by allowing a majority of the members of the House or Senate Judiciary Committees to informally request the Attorney General to seek the appointment of an independent counsel. The current efforts by the Democratic members of the House Judiciary Committee to force the Attorney General to appoint an independent counsel to investigate the Bush administration's pre-war policy towards Iraq is only the most recent example of the numerous attempts by Democratic members of Congress to compel the Attorney General to seek the appointment of an independent counsel.

Thirdly, even though the Attorney General's decision not to seek the appointment of an independent counsel is not subject to review, individual congressmen and the interest groups they represent have attempted to use the federal courts to trigger the provisions of the independent counsel statute against the executive branch. Prior to the re-authorization of the independent counsel statute in 1987, the federal courts ruled on twelve cases involving suits by individual congressmen and private citizens seeking writs of mandamus to compel the initiation of preliminary investigations or the appointment of independent counsels. The federal courts dismissed nine of these cases for lack of standing because the petitioners had failed to present their allegations to the Attorney General. Despite the absence of any statutory authority, the federal district courts did issue writs of mandamus in three cases where the petitioners had presented their allegations to the Attorney General, but the Attorney General had closed the cases before conducting an official preliminary investigation. In two of the cases the federal district court directed the Attorney General to conduct a preliminary investigation, and in one case it directed him to apply for the appointment of an independent counsel. All three of these cases were overturned on appeal by federal courts of appeal. However, a recent proposal by the American Bar Association would overturn these precedents by amending the independent counsel statute to include a provision for the judicial review of the Attorney General's decision not to seek the appointment of an independent counsel.[2]

Finally, the statute deliberately targets members of the executive branch, the branch which is best able to resist the attempts of Congress to administer the law through its oversight and investigatory powers, or through the judiciary's power of administrative review, and to expose the inefficiency and corruption which occurs under a system which fails to observe the constitutional separation of powers. With the creation of the independent counsel statute, the Congress has devised a means for undermining public confidence in the ability of the President and his subordinates to faithfully executive the law, thereby justifying Congress' continued micromanagement of the administration of the law.

This lack of accountability is not only pernicious, it is unnecessary. Throughout our history, the investigation, prosecution, conviction and punishment of criminal offenses by high-level government officials has been accomplished without such a statute. For example, contemporaneously with the tenure of the Watergate Special Prosecution Force, the Department of Justice conducted several thorough and credible investigations and prosecutions of individuals associated with the Nixon administration. U.S. Attorney for the District of Columbia Harold Titus conducted the investigation of the Watergate break-in, and the prosecution and conviction

Footnotes at end of article.

of Bernard Barker, Virgilio Gonzalez, E. Howard Hunt, G. Gordon Liddy, Eugenio Martinez, James McCord, and Frank Sturgis in connection with the Watergate burglary. He also initiated the investigation of the criminal conspiracy to cover-up the Watergate affair, and the investigation of the break-in at the office of Daniel Ellsburg's psychiatrist, Dr. Lewis Fielding, both of which were later assumed by the Watergate Special Prosecution Force. U.S. Attorney for Baltimore George Beall investigated the allegations of bribery, extortion and tax evasion which led to the resignation and *nolo contendere* plea of Vice President Spiro Agnew just ten days before the Saturday Night Massacre. Assistant Attorney General Henry Peterson helped to preserve the existence and integrity of the Watergate Special Prosecution Task Force when he was placed in charge of its operations during the interval between the firing of Archibald Cox and the appointment of Leon Jaworski. Finally, U.S. Attorney for New York Whitney North Seymour investigated and prosecuted former Attorney General John Mitchell and former Commerce Secretary Maurice Stans for conspiracy and bribery in the solicitation of campaign contributions from financier Robert Vesco in return for impeding a Securities and Exchange Commission investigation of Vesco.

Occasionally it has been necessary for the President or the Attorney General to appoint a special counsel to conduct a criminal investigation of cabinet-level officials independently of the Department of Justice. Of course, the most prominent appointment of a special counsel occurred during the Nixon administration, when the President yielded to congressional and public pressure and permitted his nominee for Attorney General, Elliot Richardson, to use the statutory authority of his department to appoint and supervise a special prosecutor to conduct an investigation of the Watergate break-in and the subsequent attempt to cover up the involvement of high-level officials in the White House and the Republican presidential campaign organization in the break-in and related activities. However, this approach was inspired by the approach utilized during the Teapot Dome scandal when, during the Coolidge administration, the Congress first conducted investigations and then, with the support of the President, appropriated funds for the creation of a special counsel to investigate the leasing of naval oil reserves in Teapot Dome, Wyoming by Harding administration officials. The authorizing legislation stipulated that the special counsel was to be appointed by the President with the advice and consent of the Senate. Through this process Senator Atlee Pomerene of Ohio was appointed special counsel, and Owen J. Roberts, a private attorney from Philadelphia and later an Associate Justice of the Supreme Court, was appointed his assistant. Their investigation led to the prosecution and conviction of former Secretary of the interior Albert B. Fall on charges of bribery in connection with the Teapot Dome leases.

The examples of the Teapot Dome and Watergate investigations illustrate three alternative methods of appointing a special counsel, each of which is consistent with the text of the Constitution and its underlying principle of the separation of powers. Under the first method, the Attorney General uses his statutory authority to promulgate a departmental regulation creating a temporary office of special counsel whose occupant is, like an Assistant Attorney General an "inferior" officer appointed by the Attorney General and removable by the Attorney General in accordance with the restrictions he places in the departmental regulation creating the office.[3] Under the second method, the Congress enacts a statute creating a temporary office of special counsel whose occupant is, like the Attorney General himself, a "principle" officer appointed by the President with the advice and consent of the Senate, and removable at the pleasure of the President. Under the third method, the Congress enacts a statute creating a temporary office of special counsel whose occupant is, like an Assistant Attorney General, an "inferior" officer appointed by either the President or the Attorney General, and removable by either the President or the Attorney General, respectively, in accordance with the restrictions the Congress places in the statute creating the office.

If the Attorney General were to improperly remove a special counsel he would be accountable for his action to the President through the removal process, and to the Congress through the impeachment process. If the President were to improperly remove a special counsel, he would be accountable for his action to the American people through the election process, and to the Congress through the impeachment process. Under any of these three methods, the decision of the Attorney General or the President to remove a special counsel would also be subject to review in federal court for its conformity with the relevant departmental regulation or congressional statute. In addition, both the Attorney General and the President would be indirectly accountable to the Congress for their actions through the power of the Senate to delay or deny the confirmation of appointments, and the power of either chamber to conduct investments or deny appropriations.

These three alternatives methods of appointing a special counsel are superior to the current independent counsel statute in several respect. First, under any of these three alternative methods the special counsel is directly accountable to a member of the executive branch whose primary function is to ensure that the laws are faithfully executed. This helps to protect the subject of an investigation or prosecution against prosecutorial abuse which is more likely to occur when an independent counsel is appointed who is neither familiar with nor accountable to the Department of Justice policies concerning the conduct of criminal investigations and prosecutions. Second, under any of these three alternative methods, a special counsel is appointed in response to specific circumstances which, in the judgement of the Attorney General or the Congress, warrant such an action. Unlike the appointment of an independent counsel, which is designed to occur automatically whenever the Attorney General is unable to conclude that there are no reasonable grounds for further investigation, the appointment of a special counsel requires a decision by the Attorney General or the Congress for which they can be held publicly accountable. This helps to protect against attempts to use a special counsel investigation to discredit an ideological, institutional, or personal adversary.

Of course, the proponents of the current independent counsel statute always point to the so-called "Saturday Night Massacre" (during which Watergate Special Prosecutor Archibald Cox was fired, on the order of President Nixon, by Solicitor General Robert Bork after the resignation of Attorney General Elliot Richardson and Deputy Attorney General William Ruckelshaus) to prove that a special counsel must not be subject to appointment, supervision, and removal by the executive branch because this subordination will necessarily interfere with the integrity of his investigation. A careful examination of this incident reveals, however, that the independence and integrity of the special counsel's investigation was preserved without taking away the Attorney General's authority to appoint, supervise, and remove the special counsel.

During the Watergate investigation, the Senate simultaneously appointed a select committee to conduct a congressional investigation into the matter, and used its power over the confirmation of the President's nominee for Attorney General to compel the President to permit the nominee to appoint a special prosecutor to conduct a criminal investigation independently of the executive branch. When the President ordered his Attorney General to remove the special prosecutor, the Attorney General disobeyed the President and offered his resignation rather than renege on his promise to the Senate that he would do nothing to undermine the independence of the special prosecutor. The Acting Attorney General, who did remove the special prosecutor, used his position and influence to persuade the President to reverse his decision and permit the appointment of another special prosecutor to continue the investigation. If this effort to restore the investigation had failed, a federal district court judge was prepared to order the reinstatement of the special prosecutor, and the Congress was prepared to authorize the creation of another office of special prosecutor. If these efforts by the judiciary and the Congress had failed to persuade the President to allow a special prosecutor investigation to continue, the Congress was prepared to conduct impeachment proceedings against the President. In the event, the special prosecutor's office concluded its investigation, initiated prosecutions, and obtained convictions against several high-level administration officials, including the convictions of John Ehrlichman, H.R. Haldeman, John Mitchell, and Robert Mardian on charges of conspiracy to obstruct justice for their roles in the Watergate cover-up. Articles of impeachment were voted against the President by the House of Representatives, and the President resigned from office in disgrace rather than face the certainty of impeachment by the Senate. As this political reaction to the Cox removal clearly demonstrates, both the Congress and the judiciary possess ample powers to discourage, review, and reverse any unwarranted interference with the independence of a special counsel subject to appointment, supervision, and removal by the executive branch.

The necessity and propriety of the independent counsel statute becomes dubious when we realize that the other two branches of the federal government are still authorized and able to conduct thorough and credible independent investigations using procedures for the appointment, supervision, and removal of outside counsels or special committees which leave the investigators fully accountable to the branch being investigated. In the Senate, the members of the Select Committee on Ethics have complete authority to investigate allegations of misconduct filed against their colleagues. They are authorized to appoint an outside counsel to conduct the investigation, but they may also conduct the investigation themselves. Since 1978, the year the original independent counsel statute was enacted, there have been

eleven formal investigations by the Senate Ethics Committee, seven of which have been conducted by outside counsels. In addition to the precedent of the Senate Ethics Committee appointing its own outside counsel to investigate alleged misconduct by members of the Senate, the full Senate recently enacted a resolution to appoint Peter Fleming as an outside counsel to investigate the leaks of confidential information in connection with the Senate Judiciary Committee's hearings on the nomination of Clarence Thomas to the Supreme Court and the Ethics Committee's investigation of the "Keating Five" scandal.[4]

In the House of Representatives, the members of the Committee on Standards of Official Conduct also have complete authority to investigate allegations of misconduct filed against their colleagues. Unlike the Senate Ethics Committee, the House Ethics Committee is not explicitly authorized to appoint an outside counsel. However, six of the numerous investigations conducted by the House Ethics Committee since 1978 have employed outside counsels.[5]

In the federal judiciary, a special committee appointed by the Chief Judge of each federal circuit, the Judicial Council of each federal circuit, and the Judicial Conference of the United States, each have complete authority to investigate allegations that a federal judge "engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts." Furthermore, the Judicial Conference may recommend to the House of Representatives that a judge be impeached. Since 1981, three federal judges have been impeached by the House of Representatives, and convicted and removed from office after a trial in the Senate. In each case, the subcommittee of the House Judiciary Committee charged with investigating and preparing articles of impeachment against the judge employed a special counsel.[6]

Occsionally individual congressmen or the congressional ethics committees themselves have been accused of impeding an investigation conducted by the special counsel. For example, in one investigation outside counsel Richard Wertheimer resigned from the Senate Ethics Committee's investigation of Sen. Edward Brook after making the accusation that representatives for Senator Brooke altered and withheld financial documents in an effort to frustrate the investigation. The Committee concluded its investigation after Senator Brooke was defeated in his bid for re-election. In another investigation conducted contemporaneously with the debate on the enactment of the original independent counsel statute, two consecutive outside counsels, former Assistant Watergate Special Prosecutor Philip Lacovara and former Watergate Special Prosecutor Leon Jaworski, resigned from the House Ethics Committee's investigation of the "Koreagate" scandal after making accusations that the chairman of the Committee impeded a compete and vigorous investigation. And in a third investigation, outside counsel R. Barrett Prettyman resigned from the House Ethics Committee's investigation of the "Abscam" scandal after the Committee ignored his recommendation that they propose disciplinary action against Rep. John Murtha. The Committee concluded its investigation without appointing a replacement for Prettyman. If the "Saturday Night Massacre" demonstrated the need for an independent counsel who was not subject to appointment, supervision, and removal by the executive branch, why is it that these four resignations did not equally demonstrate the need for an independent counsel who is not subject to appointment, supervision, and removal by the legislative branch?[7]

In conclusion, I would recommend that the independent counsel statute be allowed to expire without re-authorization, so that we may return to the pre-1978 scheme under which the Attorney General may use his statutory authority to appoint, supervise, and remove a special counsel as the circumstances warrant. The time has come for Congress to end the separate system of investigation and prosecution it has devised for the executive branch: it must either allow the independent counsel statute to expire so that the executive branch may use provisions for the investigation and prosecution of executive branch misconduct which are similar to those already in use by the legislative and judicial branches, or it must apply the provisions of the independent counsel statute to all three branches of the federal government.

FOOTNOTES

[1]The legislative history of the 1982 amendments to the independent counsel statute clearly indicates Congress' intention to prohibit the Attorney General from removing an independent counsel for failure to follow DOJ guidelines: "[This provision] should not be interpreted to mean that failure of the special prosecutor to follow Departmental policies would constitute grounds for removal of the special prosecutor by the Attorney General. Such an interpretation would seriously compromise the special prosecutor's independence." S. REP. NO. 97-496, p. 69, *reprinted in* 1982 U.S. CODE CONG. & ADMIN. NEWS @ 3552.

[2]*See* "Statement of Samuel Dash and Irvin Nathan on behalf of the American Bar Association before the Administrative Law and Governmental Relations Subcommittee of the House Judiciary Committee on the Subject of the Independent Counsel Provisions of the Ethics in Government Act" (September 10, 1992).

[3]The Attorney General currently has the statutory authority to appoint a special counsel to investigate any member of the federal government except the specific executive branch officials covered by the independent counsel statute. *See* 28 U.S.C. §§509, 510, 515; 5 U.S.C. §301. This statutory authority has been declared constitutional by the Supreme Court. *See* In re Sealed Case, 666 F. Supp. 231 (D.D.C. 1987), *affirmed* 829 F.2d. 50 (D.C. Cir. 1987), *cert. denied* 484 U.S. 1027 (1987). It has been used successfully in the past to investigate and prosecute misconduct by executive branch officials. Attorney General Edwin Meese invoked this power to provide parallel appointments for Lawrence Walsh as special counsel to investigate the Iran/Contra scandal and for James McKay to investigate Lyn Nofziger during the constitutional challenge to the independent counsel statute. *See* 52 FED. REG. 7271 (March 10, 1987). Attorney General Griffin Bell invoked this power to appoint Paul Curran as special counsel to investigate the Carter peanut warehouse case. *See* 44 FED. REG. 25837 (May 3, 1979). It is currently being used by Attorney General William Barr to authorize Nicholas Bua to act as a special counsel to investigate allegations of criminal misconduct against the Department of Justice in connection with its contract with INSLAW, Inc. for the installation of computer software for the Department, and to authorize Malcolm Wilkey to act as a special counsel to investigate allegations of criminal misconduct at the House Bank scandal.

[4]For the authority of the Senate Ethics Committee see RULES OF PROCEDURE OF THE SENATE SELECT COMMITTEE ON ETHICS, 101st Cong., 1st sess. (1989). Outside counsel investigations authorized by the Senate Ethics Committee include: Henry Schuelke's investigation of Sen. Alfonse D'Amato; Robert Bennett's investigations of Sens. Alan Cranston, Dennis DeConcini, John Glenn, John McCain, and Donald Riegle in connection with the "Keating Five" scandal, of Sen. David Durenberger, and of Sen. Harrison Williams in connection with the "Abscam" scandal; Carl Eardley's investigation of Sen. Herman Talmadge; Richard Wertheimer's investigation of Sen. Edward Brooke; and Victor Kramer's investigation of Sen. Birch Bayh, former Sen. Jack Miller, and three Senate aides in connection with the "Koreagate" scandal. Investigations of Sens. Robert Morgan and Mark Hatfield, and earlier investigations of Sens. David Durenberger and Birch Bayh, were conducted by the Committee without the assistance of outside counsel. For the resolution which authorized the appointment of an outside counsel to investigate "leaks" from the Senate Judiciary and Ethics Committees see S. Res. 202, 137 CONG. REC. S15200 (daily ed. Oct. 24, 1991).

[5]For the authority of the House Ethics Committee see RULES OF THE HOUSE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, 102nd Cong., 1st sess. (1991). Outside counsel investigations authorized by the House Ethics Committee include: Richard Phelan's investigation of Rep. Jim Wright; William Kunkle and Linda Chase's investigation of Rep. Newt Gingrich; Stanley Brand and Abbe David Lowell's investigation of Rep. George Hanson; John Cochran's investigation of Rep. Fernand St. Germain; Joseph Califano's investigation of Reps. Daniel Crane and Gerry Studds in connection with the congressional page sex and drug scandal; R. Barrett Prettyman's investigation of Reps. John Jenrette, Richard Kelly, Raymond Lederer, John Murphy, Michael "Ozzie" Myers, and Frank Thompson in connection with the "Abscam" scandal; and Philip Lacovara and Leon Jaworski's investigations of Reps. John McFall, Edward Roybal, and Charles Wilson in connection with the "Koreagate" scandal.

[6]For the authority of the Chief Judges, the special committees, the Judicial Councils, and the Judicial Conference *see Judicial Councils Reform and Judicial Conduct and Disability Act of 1980*. PL. 96-458, 94 Stat. 2035, 28 U.S.C. §372 as amended by *Judicial Improvement Act of 1990*, PL. 101-650, 104 Stat. 5122, 28 U.S.C. §372. The constitutionality of the provisions of the original statute have been sustained by the Supreme Court. See Hastings v. Judicial Conference of the United States, 657 F.Supp. 672 (D.D.C. 1986), *affirmed in part, reversed and remanded in part* 829 F.2d 91 (D.C. Cir. 1987), *cert. denied*—U.S.—, 108 S.Ct. 1487 (1987). The impeached federal judges were Harry Claiborne, Alcee Hastings, and Walter Nixon. The House Judiciary Subcommittee on Courts, Civil Liberties, and Administration of Justice employed Nicholas Chabraja as special counsel to investigate the charges against Judge Claiborne. The House Judiciary Subcommittee on Criminal Justice employed Alan Baron as special counsel to investigate the charges against Judge Hastings. The House Judiciary Subcommittee on Civil and Constitutional Rights also employed Baron as special counsel to investigate the charges against Judge Nixon.

[7]It should be noted that during the debate over the creation of the original independent counsel statute in 1978, a proposal by Rep. Elizabeth Holtzman to apply the independent counsel statute to Congress for the investigation of the "Koreagate" scandal was defeated in the House Judiciary Committee. A similar proposal by Sens. Donald Riegle and John Heinz was adopted by the Senate, but it was removed from the bill by the conference committee. During the debates over the 1987 amendments to the independent counsel statute, when eight members of Congress were under investigation by either the House or Senate Ethics Committees, and only one of these investigations was being conducted by an outside counsel, proposals were again offered to apply the independent counsel statute to the members of Congress. These proposals were tabled in the Senate after they were defeated in the House. For the congressional debate on these proposals *see* 133 CONG. REC. H8894-904 (daily ed. Oct. 21, 1987) and S15632-42 (daily ed. Nov. 3, 1987). It should also be noted that the Executive Branch has repeatedly sought to extend the independent counsel statute to Congress. Attorney General Edwin Meese used his statutory authority to appoint a special counsel to devise an independent counsel provision for the investigation of members of Congress. *See* 54 FED. REG. 11524 (Mar. 21, 1989), amending 53 FED. REG. 31323 (Aug. 18, 1988). Attorney General Richard Thornburgh later suspended this regulation. *See* 54 FED. REG. 15752 (Apr. 19, 1989). Also, the President's Commission on Federal Ethics Law Reform recommended extending the independent counsel statute to Congress. *See* To Serve With Honor (1989), pp. 111-13. For a discussion of the Meese regulation and the draft legislation based upon the Commission's recommendation *see* Douglas Kmiec, The Attorney General's Lawyer: Inside the Meese Justice Department (1992), pp. 199-204, 209-214.

## TRIBUTE TO POSTMASTER JON M. STEELE

### HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. NEAL of Massachusetts. Mr. Speaker, it is with great pleasure that I pay tribute to a hard-working, devoted public servant of Longmeadow, MA, who has recently retired from his position as postmaster for Springfield, MA.

Mr. Jon M. Steele has been promoted to the area manager for customer service for the Allegheny, PA, area. This newly created position is a result of the postal service reorganization, a maneuver which places 20 individuals in positions of national power. Mr. Steele is one of these prestigious individuals.

Jon served as Springfield postmaster for 12 years following 4 years of postmaster service in Portsmouth, NH. He was also a postmaster in Burlington, VT. A graduate of University of Massachusetts at Amherst, Jon has spent 23 years working for the postal service, a worthy accomplishment unto itself. He attended the University of Virginia and the University of Lowell for his graduate studies. He is also a U.S. naval veteran.

Not only is Jon an accomplished civil servant, he is also a tremendous community servant. He serves as the director for the United Way of the Pioneer Valley, a trustee at the Eastern States Exposition, and a director and member of both the Springfield Rotary Club and the Springfield Chamber of Commerce. Each organization, and the city as a whole, will miss the service and devotion Jon has graciously given.

Jon's wife, Lee Steele, is a registered nurse at the Cooley Dickinson Hospital in Northampton. He has two sons, Michael and Matthew, both college students. Jon proudly includes watching his sons play ice hockey as one of his many hobbies. He also enjoys gardening, boating, and canoeing. As part of these interests, he is a member of the Massachusetts Audubon Society. He is also a member of the National League of Postmasters and the National Association of Postmasters of the United States.

The Pittsburgh area is very lucky to receive Mr. Steele as a postal servant and a community servant. He has given many years of great service to this area and he will surely continue this tradition in his new home. He has brought about numerous changes in the Springfield Postal Service and has helped to bring about a system rated highest in customer satisfaction throughout the entire country, an honor of which he should be extremely proud.

Mr. Speaker, please join with me and the friends and family of Jon M. Steele in wishing him a prosperous and happy transition to his new role within the postal system. Also please join in a formal "Thank you" for his many years of terrific service. He certainly warrants it.

## CONGRESSMAN KILDEE HONORS DOLORES ENNIS

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. KILDEE. Mr. Speaker, it is an honor and a privilege to rise before you today to pay tribute to an outstanding educator, community activist, and former colleague from my hometown of Flint, MI, Dolores Ennis. For over 41 years, Dolores has devoted herself to developing the potential of our Nation's most precious resource, our children. On October 11, 1992, at 3 p.m., a reception will be held at the University of Michigan-Flint to honor the lifetime achievements of this remarkable woman.

Dolores Ennis began her career with the Flint schools in 1952 when she was hired as a Latin and English teacher at Whittier Junior High School. Having worked for 8 years as a Latin teacher at neighboring Central High School, I know first hand of Dolores' skill as an instructor and a motivator. The students that enrolled in my class after taking her Latin class in junior high were always well prepared and excited about learning. Her students were a testament to both her outstanding abilities as a teacher as well as her love and dedication to the classroom. These qualities were exhibited by Dolores throughout her extraordinary career, making her an excellent role model for teachers, counselors, and administrators.

Dolores Ennis taught at Whittier for 18 years and in 1970 was named assistant principal for instruction at Northern High School. In that same year, Dolores was also named executive director of middle school education. Though the challenges of her administrative post were great, she continued to distinguish herself both as a director and as assistant principal, becoming an outstanding mentor for students and faculty. In 1975, while still a director, she was named deputy principal of Central High School. She served at Central until 1979, leaving the school to work full time for the school administration. In 1988, Dolores was given the additional assignment of director of curriculum services for middle schools. She has served faithfully in that capacity until her retirement this year.

Dolores Ennis' contribution to the field of education extends well beyond the boundaries of Flint, MI. She has served as the regional coordinator for the Michigan Association of Middle School Educators. She is an active member of the National Middle School Association, the Association for Supervision and Curriculum Development, the Delta Kappa Gamma International Society, the National Association for Bilingual Education, and is the past president of the Flint Congress of School Administrators.

Because of her organizational skills and genuine concern for the future of our community, she was selected by Mayor Woodrow Stanley to serve on the Hurley Medical Center board of managers. She is a member of the United Way of Flint and Genesee County, serving as its chairperson from 1988 to 1989. Dolores is a member of the National Association for the Advancement of Colored People. She has also served on the board of directors of the Flint Institute of Music and the Big Sisters of Greater Flint.

Mr. Speaker, words cannot express the breadth and depth of pride I feel today for the privilege of representing Dolores Ennis in the U.S. Congress. She has been an inspiration not only to me, but to all people truly concerned about the future of education in our Nation. She understands that the greatness of a nation is measured not by the quantity of warheads in its nuclear arsenal, but rather by the quality of its commitment to the care and development of its children. I ask you, Mr. Speaker and my fellow Members of the 102d Congress to join me in honoring a great American, Dolores Ennis.

## REAR ADM. ROBERTA HAZARD AND THE NAVY

### HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Ms. MOLINARI. Mr. Speaker, the following is the text of an article written by retired Navy Admiral Elmo R. Zumwalt, Jr. concerning the recent retirement of Rear Admiral Roberta Hazard. It is a stirring commentary of a female naval hero set against the backdrop of the Tailhook scandal. Admiral Hazard's story is a success story for the Navy and one in which we as a Nation can take great pride.

There is another extraordinary naval female that I know, this one a civilian. Her name is Barbara Pope and she is the Assistant Secretary of the Navy, for Manpower and Reserve Affairs. Secretary Pope helped further the investigation into the sexual misconduct of some naval personnel. She has made certain that a strong message has now been sent by our Government that this will not be tolerated. Secretary Pope believed in the Navy so much that she joined with Secretary O'Keefe in ferreting out the truth. She brought the following, reassuring text to my attention:

The media paid scant attention to the Navy's farewell tribute last week in the retirement ceremony of a remarkable female flag officer, Rear Adm. Roberta Hazard. It is sad that the dramatic story of Adm. Hazard's career did not make the papers to balance the unfavorable publicity highlighting last year's Tailhook episode in Las Vegas.

In the disgusting Tailhook episode, a group of drunken male aviators brutally, sexually abused a number of innocent females, including some of their "own"—female naval aviators. Perhaps even worse, a number of senior naval officers in the chain of command—some operating under the unacceptable philosophy that "boys will be boys" and others seeking to avoid bad publicity for the Navy—initially covered up the crime.

The Navy's Chief of Naval Operations, Adm. Frank Kelso, has moved with a firm hand. He has made it clear that all of those accused of participating in the Tailhook crimes will be brought to justice, that any perpetrators of sexual harassment anywhere in the Navy will be vigorously prosecuted, that every civilian and military naval person will undergo sensitivity training concerning sexual harassment, and that every female has a right to equal opportunity. It was the

implicit resentment by the male aviators of the equal right of female naval aviators that was one of the reasons for the Tailhook crimes.

All of this has brought heavy, unfavorable media coverage.

It is against this backdrop that the story of Adm. Hazard's career is so important to highlight.

A graduate of Boston College, she was a teacher for four years before being commissioned as ensign in the Navy. At that time, in the 1950s, restrictions on the duty assignment of female line officers were so pervasive that their careers were in very narrow patterns. There was no opportunity for the broadening and operational experience to qualify for high rank.

Notwithstanding these obstacles, Ensign Hazard's performance of duty at her very first command was so impressive that her commander presciently predicted that there was no assignment to which she could not aspire.

As she moved along in the Navy, slowly the barriers to women officers began to come down. In the early 1970s, the first woman in Navy history became a rear admiral—the head of the Navy's nurse corps—and Congress, despite President Nixon's personal bias against it, changed the law to permit women to attend the U.S. Naval Academy. As chief of naval operations at that time, the author assigned women to the one ship to which it was legal to assign them—the hospital ship USS Sanctuary—and initiated naval aviation pilot training for women. Later, Congress opened up assignments to combat support ships and women were permitted to command shore facilities.

Through this breach in precedent, Roberta Hazard, by then a middle-grade officer whose talents were broadly recognized, moved into a series of three traditionally male shore commands. Her stellar performance in the first two led to her selection for flag rank and assignment to command the U.S. Navy's Great Lakes Training complex. Along the way, she served superbly as staff officer to a commander in chief of NATO South, a chief of naval operations, and a chairman of the Joint Chiefs of Staff.

She was urged last month by the Secretary of the Navy to accept assignment as a three-star vice admiral, to head the critically important Naval Air Training Command—the first nonaviator ever. Regrettably, for reasons of health, Adm. Hazard had to decline what would have been the most senior position ever achieved by a woman, and chose to retire.

Her charismatic leadership and her demonstration that military professionalism is not gender-limited have established a pattern that will increase the rate at which all remaining constraints on women in the naval service are removed.

The fact that this remarkable woman was able to achieve such success demonstrates the positive side of the Navy's attitude toward gender—a story that deserves to be told.

## THE 200TH ANNIVERSARY OF HOPEWELL UNITED METHODIST CHURCH

### HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. MURTHA. Mr. Speaker, I'd like to take a moment to salute the Hopewell United Methodist Church of Somerset County, PA upon their 200th anniversary. This is a extraordinary achievement, and the congregation of the Hopewell United Methodist Church is justifiably proud of their history and their faith.

Back in 1792, the area which is now Somerset County was a sparsely populated frontier. Very few people had crossed the Allegheny Mountains, and fewer still had chosen to settle in an area where the nearest neighbor might be 8 miles away. A young couple, Agnes and Moses Fream, settled about 1½ miles north of what would become the town of Boswell. They built a two-story log cabin, and Moses Fream opened it to the traveling Methodist ministers that circulated throughout western Pennsylvania. From these humble origins the Hopewell United Methodist Church has grown and prospered.

The Fream family would probably not recognize the rolling landscapes and carefully plowed fields of Somerset County today. But they would recognize and feel comfortable with the faith that the congregation of the Hopewell United Methodist Church still displays 200 years after a pioneer family cleared the forest, built a house, planted crops, and worshipped God.

I'd like to salute the congregation of the Hopewell United Methodist Church on their 200th anniversary. It's a remarkable accomplishment, and a remarkable comment on the depth of the faith that has built our Nation made it great.

## THE AMBULATORY CARE QUALITY IMPROVEMENT ACT OF 1992

### HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. WYDEN. Mr. Speaker, my purpose in rising today is to act the findings of the Subcommittee on Regulation's 5 year long investigation into quality of care problems in the rapidly burgeoning industry providing health care services outside the hospital in so-called ambulatory health care clinics.

Today I am introducing legislation to establish standards for quality health care in two types of ambulatory care clinics which the subcommittee's investigation has identified as being most in need of oversight and accountability. These two classes of clinics are ambulatory surgical centers and emergency care centers.

Few of my colleagues may realize the very substantial number of surgeries and emergency care being done outside of hospitals and the normal quality review that hospitals provide. This year, for the first time in history, more surgeries were performed in ambulatory care facilities than in hospitals. The Joint Commission on Accreditation of Healthcare Organizations estimates that by 1995 fully 65 percent of all surgical procedures will be done outside the hospital.

This means that millions of invasive and lifesaving procedures are being performed each year in unlicensed or substantially underregulated facilities. The training of the personnel who assist in these surgeries and who must provide emergency care may be inadequate. There is no check on whether adequate lifesaving equipment is on hand, including either basic or advanced cardiopulmonary resuscitation devices. High-powered advertising is often used to suggest that professional expertise is available where none, in fact, exists.

The growth of this industry is not a bad thing in itself. Good quality, low-cost ambulatory care could help millions of Americans. By reducing the price of medical services, access to health care can be enhanced by these walk-in clinics. With our total national health care bill now exceeding a mind-boggling $800 billion each year, the price of health care items and services is more and more a factor in deciding who is served, and who will go without.

Moreover, Mr. Speaker, I believe that the vast majority of physicians in this country are honest, decent and caring. But for the significant minority who aren't, these unsupervised and unaccountable freestanding health care clinics are a natural place to set up shop. The lack of peer review, oversight by accreditation organizations, minimal training standards, or even minimal quality assurance programs amounts to an open invitation to slipshod medical providers to ply their trade.

The subcommittee's investigation confirms that ambulatory care provides a fertile environment for medical entrepreneurs who are undertrained, unscrupulous, or unethical. In the words of one physician interviewed by subcommittee staff, ambulatory health care is an area of care favored by what he called the medical buccaneer.

The General Accounting Office testified that the States have been slow to require even minimal licensing and quality assurance. In 1987 the States licensed about 23,000 freestanding ambulatory care facilities, ranging from radiological labs to cataract surgery clinics. But except for the 1,300 or so of these that were also certified as meeting Medicare standards, State regulation and oversight often stops at compliance with building and fire safety codes.

GAO said, "in total, 26 States reported that they did not know whether one or more types of freestanding providers were operating in the States." Not surprisingly, given that States are attempting to regulate providers they can't even identify, some types of facilities are not licensed in any State, including pain control centers and cancer treatment facilities involved in chemotherapy and radiation therapy. Only four States require licensing for emergency care centers—facilities which advertise to attract specifically those patients who are in the most unstable condition.

Mr. Speaker, virtually every State licenses veterinary clinics to protect animals from substandard care. The same cannot be said for their taxpaying citizens.

GAO found little in the way of a fallback safety system to backstop the States failure to regulate. Only 14 percent of all freestanding surgicenters belonged to a voluntary accreditation program.

But even in facilities subject to State licensing, GAO found evidence suggesting that State licensing often amounts to little more than a paper tiger. Only two States had revoked an ambulatory surgical center's license

during the year of GAO's study, and only one State that had suspended the license of such a facility. Twenty-three States had no system whatsoever for collecting and resolving complaints against either licensed or unlicensed providers.

All too often in Congress vital health and safety concerns are reduced to dry, inhuman bureaucratese. I want my colleagues to know, in human terms, how much is at stake here:

A doctor in southern California allowed his bookkeeper to deliver general anesthetic to a patient undergoing a surgical procedure in the office. The patient died.

A diagnostic center in Dallas allowed a radiological technician to administer a sedative to a 5-year-old patient. The child received a massive overdose, and died.

Another Texas doctor opened up an office practice for dermatology surgery. One of his first patients—a 13-month-old girl—was poisoned via a misconnected anesthetic gas line. This little girl, too, died.

Each of these incidents occurred in a facility that currently falls outside of the scope of any kind of peer review of the doctor, or of the kind of State and Federal licensing regulations that assure adequacy of facilities and allied health staff. The point is, Mr. Speaker, for enterpreneurs who define their surgical and diagnostic facilities as mere extensions of their personal professional practices, there is virtually no oversight.

Mr. Speaker, when our constituents take advantage of the lower cost and greater convenience of these ambulatory facilities, they should not be put in the position of unknowingly trading away the quality of care they have every reason to expect. Clearly, minimum standards are needed to ensure that such tradeoffs don't occur.

The legislation I am introducing today will close the existing regulatory loopholes by requiring unlicensed and unregulated facilities to pass muster with a quality assurance program established by the HHS Secretary. In lieu of direct Federal certification, these facilities may be certified by an accreditation organization which has been approved by the HHS Secretary as meeting basic program integrity standards.

The bill will impose new requirements on all unlicensed, non-Medicare certified ambulatory surgery centers and freestanding emergency centers. Most doctors' offices would not be regulated. Surgery centers would be regulated if they put people under general anesthesia or use analgesia that knocks out the patient's protective reflexes, such as the urge to breathe, or the gag reflex. Emergency care centers would be regulated if they hold themselves out to the public in any way—including signs, ads, Yellow Pages—as offering "emergency" or "immediate" or "urgent" care, or words to that effect.

Both of these types of entities must be certified by the Secretary—or accredited by an accreditation organization—as meeting certain standards, or face civil penalties for noncompliance. Under these standards:

First, ambulatory care facilities must use only qualified physicians and qualified nonphysician personnel. For surgical centers, this means physicians must be either board certified or have privileges at a local hospital to perform the same specific surgeries as are performed at the ambulatory surgery center.

Second, neither type of facility would be allowed to use false, misleading, or deceptive advertising or claims.

Third, walk-in emergency care centers would have to maintain appropriate around-the-clock emergency care and diagnostic capability, such as having on the premises during all hours of operation a doctor, appropriate radiology and clinical lab capability, and advanced life support equipment.

Fourth, both types of facilities would have to possess a quality assessment and improvement process, including a peer review process which meets the due process standards of the Health Care Quality Improvement Act of 1986.

Fifth, both types of facilities would have to acquire bonding or malpractice insurance of at least $200,000, or as much as the maximum State tort liability limit, in States where such limits apply.

Sixth, both types of facilities would be required to maintain a transfer agreement with area hospitals, so patients can be taken there if and when they need care beyond the clinic's capability.

Mr. Speaker, while this bill would impose no additional obligations on facilities licensed by the States, GAO's findings suggest that a more indepth review of State licensing is needed. The bill I am introducing will direct the GAO to report to Congress within 3 years of enactment regarding the adequacy of State licensing. Specifically, GAO would be asked to compare State standards and enforcement practices with the standards and enforcement practices of Medicare, as well as those imposed on unlicensed facilities by this bill.

This legislation creates no unfunded Federal, State or local costs. The Secretary is authorized to impose fees on clinics to cover the costs of developing and administering the new regulatory program. To the extent that private accreditation organizations assume the bulk of onsite inspection duties, these costs will be funded, as is customary, by fees clinics pay to the accreditation organizations.

It is my hope that the States, the professions, and the Federal Government can agree to the regulatory framework proposed by this legislation, one that allows continued growth in ambulatory care services while at the same time ensuring that patients receive good quality health care.

## AMBASSADOR EDWARD A. CLARK: PUBLIC SERVANT SUPREME

### HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. PICKLE. Mr. Speaker, Edward A. Clark—Lawyer. Diplomat. Businessman. Banker. Raconteur. Historian. Counselor. Educator. Political Strategist. Philanthropist. Ambassador.

All of these things and more were the legacy of this giant of a man, Ambassador Edward A. Clark, who lived most of his life in the capitol city of Austin with his beloved wife Ann, who died in 1989, but his thoughts and his heart never strayed from the delightful Straddleford Farms in his hometown of San Augustine, TX where he still voted and where his widely recognized yarn-spinning abilities were nurtured.

His political acumen remained as strong in the 1990 space age as it was 60 years earlier when he aided his friend Attorney General James V. Allred who campaigned successfully for Governor in each of the State's 254 counties in a Model-T. Clark was named Texas Secretary of State, the Governor's highest appointment by Allred. Later, President Lyndon Johnson, Clark's longtime friend, appointed Clark Ambassador to Australia in 1965.

Ambassador Clark stories are legend. Many pages of the RECORD could be filled by his tales, both true and maybe some apocryphal. He was once quoted as saying about a very popular politician whose dealings were said to be a bit shady, "He was as honest as the times would permit." Unfortunately the printed word does little justice to Mr. Ed's story telling capabilities, for his somewhat high pitched east Texas twang always added much to his listeners' pleasure.

He was fond of the saying "Too slow for 'possum and not fast enough for 'coon" that he had it inscribed on his personal stationery. In his beloved east Texas, the saying refers to a fellow who doesn't quite have it all together—that he is slower than a possum and not quick enough for a coon. Mr. Ed used this saying in a self-deprecating sort of way, but his friends in east Texas and all over the world knew him to be faster than any possum and plenty quick for any coon.

In the words of former U.S. Senator Ralph Yarborough, his close friend, "When Ambassador Clark passed away, it was like a giant oak falling in the forest."

"Ed Clark left his impression on Texas history, law, politics, and government. He was such a stunning success as ambassador to Australia that his name has become synonymous with ambassador."

Mr. Speaker, no one shaped Texas' civic, business or political activities more than this man. I could rely on his friendship as I could depend on the rising sun. I have lost my 'second' father. As Ambassador, I think he brought Australia and the United States closer together than ever before. In Texas, he was a colorful and unique legend whom our State will cherish always. He had such trust with the people and with his associates that he gained the confidence of both Democrats and Republicans.

I submit to you an editorial from the Austin American Statesman which touches at the heart of this true son of Texas:

CLARK WAS WELL-LOVED AMBASSADOR OF GOOD WILL

In a day and age when politicians are regarded with suspicion and the coin of public service has been debased by greed and scandal, it is a comfort to know that there still are true statesmen, models of integrity, honor, genuine accomplishment, assets to their community, state and nation. One of those was Edward A. Clark of Austin, who died Wednesday at age 86.

Clark accomplished more in his life than most people can ever hope to. Ambassador, attorney, banker, political strategist, philanthropist, guide and adviser to three gen-

erations of political leaders, Clark was also a man of ready wit and good humor whose friends are legion.

After receiving his law degree from the University of Texas in 1928, Clark began a remarkable career, beginning as Texas assistant attorney general. He was assistant to Gov. James Allred, then became secretary of state—all this by the age of 30.

He then went on to found the law firm Looney & Clark, serve in World War II and chair the board of Texas Commerce Bank. In 1965, President Lyndon B. Johnson appointed Clark as ambassador to Australia. Clark became an executive director of the Inter-American Development Bank in Washington, DC, was on the Arms Control and Disarmament Agency committees, was for six years a University of Texas System regent and was a trustee of both Southwestern University in Georgetown and the University of Texas Law School Foundation. He raised millions of dollars for both institutions. He and his late wife donated their 24,000-volume collection of Texana to Southwestern in 1965.

As ambassador to Australia, Clark became an instant hit. After two years, he was a legend, and still may be the most widely known and beloved American in Australia. In 1968, an article in the Canberra newspaper *The Australian* called Clark "the most phenomenal ambassador to reside in Canberra."

The newspaper reported that "at least a thousand people said goodbye to U.S. Ambassador Ed Clark this week . . . Why so many? Simple. People like Ed Clark and Ed Clark likes people. And it doesn't end there, because along with the affection there is mutual respect.

"There has never been an ambassador in Canberra who could walk from the conference table and then have a beer in a Melbourne pub, yet make sense and friends in both arenas. There has never been an ambassador who, in two short years, could cover nearly 400,000 miles in 'search of the Australian people and meeting the Australian people.' And there has never been an ambassador who leaves behind such good will and so many friendships." That was Ed Clark.

Clark also was a visionary about the importance of education to this state's future. When the Clarks donated their Texana collection, Ed Clark said the collection "expresses both a reverence for the past and a regard for the future . . .

"The spirit of Texas is the greatest and most enduring of all the many elements which might compose a Texas heritage. But the spirit of Texas cannot be transferred by deed, or bequeathed by will. It can be acquired only through knowledge gained by the individual's own efforts.

"Books are the essential and fundamental source of that knowledge, and a collection of them, brought together with loving care and maintained with pride, may well inspire others to the effort necessary for them to realize to the fullest extent the benefits of their Texas heritage."

Edward A. Clark was himself such an inspiration and, like that collection, priceless and irreplaceable.

## HONORING THE LIFE AND MINISTRY OF FR. JOHN D. PROTOPAPAS

### HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Ms. OAKAR. Mr. Speaker, I am pleased and proud today to ask you and my colleagues to join with me in celebrating the 25th anniversary banquet on October 11, 1992, honoring the Rev. Father John D. Protopapas for his quarter century service as pastor of the Annunciation Greek Orthodox Church of Cleveland, OH.

The life of Father Protopapas leading up to his assignment in 1967 as spiritual leader of Cleveland's Annunciation Greek Orthodox Church is as distinguished and rewarding as his service to God and his congregation since.

Born in the village of Pano-Zodhia, Cyprus on January 23, 1927, John D. Protopapas, in the tradition of his family, was destined to serve his Church. He received his first lessons in christian education and Byzantine chanting from his grandfather, Rev. John Argyrides Protopapas, who was the Protopresbyter of his village and from his father, Demetrios, who was the Psalti.

Following school life in his village, John entered the high school of Morphou and then on to Paphos College. John came to the United States in 1949 and quickly enrolled at the Greek Orthodox Theological Seminary in Brookline, MA. He graduated in 1952.

In June 1955, John Protopapas was married to Catherine Lianides of Worcester, MA, and was then ordained. Christopher James was born to this loving family in 1956, Paula Joanne followed in 1957 and Mira Lynn greeted the world in 1965. (Christopher is now married to the former Fran Veloudos. They have two sons: Derek and Andrew. Paula is married to James John Manos. They have three daughters: Rebecca, Elizabeth and Sarah. Mira Lynn is betrothed to Mr. Andrew Kipker.)

On July 15, 1967, Fr. John Protopapas was asked to assume the duties of spiritual leader of Annunciation Greek Orthodox Church in Cleveland, OH. The community opened its arms to him and his family and it was warmly embraced in return.

During his 25 years at the Annunciation Church, Fr. John has proven himself as a dynamic leader in the spiritual, educational, cultural, and physical growth of the community. In his selfless style, Fr. John has made himself available to all Greek Orthodox of the Greater Cleveland area, and he has always extended the hand of spiritual guidance and support to all he could reach.

Fr. John's philanthropic errands should also be noted. Through his efforts, a number of patients from Greece have been sponsored by the church and have received open heart surgery at Cleveland hospitals.

Many honors have been bestowed upon Fr. John during his career as a spiritual leader. In 1970, he received the Offikion of Economos. In 1977, he returned to Holy Cross Seminary where he was principal speaker during the 25th anniversary of his graduating class. At that time, His Eminence, Archbishop Lakovos, bestowed upon Fr. John the Offikion of Protopresbyter of the Ecumenical Patriarchate, the highest office a married can receive. In 1983, Patriarch Diodoros of Jerusalem, visiting the Annunciation Church in Cleveland, vested Fr. John with the Great Cross of the Holy Sepulcher.

In 1989, Mayor George V. Voinovich appointed and commissioned Rev. John Protopapas to be an Honorary Mayor of the city of Cleveland for his important contributions to the city's life and progress in the previous decade.

Fr. John has served as member of the Archdiocesan Presbyters Council and as President of the St. Chrysostom Clergy Syndesmos of the Pittsburgh Diocese.

Currently, this tireless servant of God is a member of the Diocesan Counsel, chairman of the Diocesan Greek Education Committee and is chairman and secretary of the Diocesan Ecclesiastical Court in Ohio.

To no one's surprise, Fr. John still finds time for gardening. It is fitting because Fr. John loves to see things grow—flowers, fruit, vegetables, but especially people.

We have all grown under the protection and leadership of this extraordinary, caring and loving man. His lesson for us all is simple: Follow his example.

## NICOLA CERILLI

### HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. GALLO. Mr. Speaker, recently, I lost a good friend, Nicola Cerilli, who was, for many years, a very successful restaurateur in Dover, NJ.

Upon reflection, Nick's life provides us all with a timely reminder of what it means to be an American.

As we prepare to celebrate the 500th anniversary of Columbus' voyage, we look for reminders of the significance of that journey, and we find it in individuals like Nicola Cerilli, who also discovered that America is truly the land of opportunity.

His son, John Cerilli, best summarized many of our feelings about Nick, in his moving eulogy to his father:

In his extraordinary life, Nicola Cerilli epitomized the idea we know as the American dream. A restaurant owner and chef, highly respected in his community, he began his life in Italy as one of five children born to parents of simple means. The untiring work ethic and devotion to family he was renowned for began as a youngster. During the latter part of the Second World War, Nicola, in his early teens and the family's oldest male child, felt obligated to provide for his parents and siblings. When American soldiers began the liberation of mountain villages around his hometown of Supino, Nick would make a perilous 15-hour trek to get provisions from the U.S. Army. That determination became his trademark.

Even after the woman he courted left Italy on a ship bound for America thinking she would never have a chance to marry Nicola Cerilli, he wired her during the ocean crossing proclaiming his undying love and the de-

sire to marry her. When she arrived in America, a letter saying much of the same awaited her. Fourteen months later, he married his wife, Elda, in Italy. What ensued was a lifelong love affair with the only woman he ever wanted to be with.

Because of vastly greater opportunity, they started their family in the United States. Nicola Cerilli held to his traditional value and belief that he should be the one to feed, clothe, and shelter his family. And that's what he did. Even after his restaurant became wildly successful, Nicola put in weeks in which he logged over 80 grinding hours. He did this to ensure his wife and four children got the best America had to offer them. From poverty and a fifth grade education, Nicola Cerilli struggled with great passion to fulfill his American dream. He left this world September 11, 1992, but his life of sacrifice and determination will be forever ingrained in the mind of anyone who had the honor to know him.

Mr. Speaker, as we mark the 500th anniversary of the voyage of Columbus, we are reminded once again that we are a nation of immigrants—men and women who overcame great uncertainty and hazardous journeys because they held the hope in their hearts that there would be opportunities at the end of the road.

It is always sad to lose a good friend, but there is continuity in the lives of the next generation and the dreams of generations yet to come.

Nick's commitment to hard work, so that he could build a better future for his children, is a commitment that we must never lose as a nation.

Because, no matter where we came from, as Americans we have shared a common belief in the value of hard work and a mutual understanding of the word opportunity.

Nicola Cerilli personified those beliefs and values, which are truly and uniquely American values. It is good for us to remember the importance of keeping the dream of opportunity alive and well for all Americans.

## WORKER PROTECTION WARNINGS ACT

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to introduce a bill to improve the health and safety of American workers. I am pleased to be introducing this important legislation with Congressman PAUL HENRY, my colleague on the House Subcommittee on Health and Safety. Entitled the "Worker Protection Warnings Act," this bipartisan bill has the support of various industry and labor groups.

This legislation would require the Occupational Safety and Health Administration [OSHA] to establish uniform warnings on all personal equipment used to protect workers from occupational hazards. Uniformity will eliminate the existing confusion among both employers and employees about the proper uses and limitations of personal protective equipment, due to the inconsistency in warning requirements among individual States.

Under the bill, consistent, uniform warnings and instructions would be created for each class of personal safety equipment, including any devices to protect the eyes, face, head, ears, and other areas of the body. The OSHA directive would preempt all current State-mandated standards and requirements, as the sole method to guarantee uniformity. OSHA, in developing standards, would be required to involve employees, employers, and manufacturers of safety equipment.

I look forward to working with Mr. HENRY, other interested Members, and the labor and business communities in the near future to improve this legislation. I am optimistic that this legislation will initiate a productive discussion that will lead to the swift passage of an important workplace safety bill.

## TEACH FOR AMERICA

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. RANGEL. Mr. Speaker, I rise to recognize an organization that has done great service to America's inner-city youth and to young people across the country in undeserved urban and rural areas. The organization is Teach For America and its successful work is having a revolutionary impact on our awareness of the educational needs of this country and on the methods by which we will ultimately come to terms with these needs. We owe a great deal of gratitude to the 9,000 or so college graduates who competed for positions to serve in poor communities that did not have certified teachers. These students applied for this service out of a desire to make change happen and with enthusiasm and an entrepreneurial spirit that has given teaching renewed purpose.

The goals of Teach For America are very compatible with the goals of enterprise zones as a step toward remediation of infrastructure decay in our Nation's communities. It takes dedication, pioneering spirit, and financial commitment to make an enterprise successful and Teach For America possesses all of these qualities. Corporations, foundations, and individuals have come forward in support of the program and they have made a tremendous difference with limited resources and in just a few short years.

Mr. Speaker, in a time when we are desperately seeking solutions to our inner-city infrastructure problems and looking for ways in which to turn around our at-risk youth, it seems to me as though we would be missing a tremendous opportunity if we did not support this young American enterprise. A relatively small investment on the part of the Federal Government could go a long way toward keeping Teach For America a viable force for change not only in our cities but also in rural areas. Teach For America has their corps stationed in 13 States across the country, including several in my own congressional district, and I would like to see it in all 50.

I think that we should applaud Wendy Kopp, Teach For America's young founder and president, and think about how far this investment could take us toward reaching our much needed educational goals for America's underserved youth.

## INTRODUCTION OF THE RESIDENTIAL HOMEBUILDERS AND SMALL BUSINESS CREDIT AVAILABILITY ACT OF 1992

### HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. HUNTER. Mr. Speaker, I am today introducing legislation, the Residential Homebuilders and Small Business Credit Availability Act of 1992, to facilitate the providing of loan capital to residential homebuilders and other small business concerns. My legislation would establish a temporary Government-sponsored enterprise [GSE] aimed at providing capital to homebuilders and small businesses through existing lending institutions.

The homebuilding industry is in dire straits. In testimony last fall before the House Republican Research Committee's Task Force on Tax Policy and Job Creation, The National Association of Homebuilders [NAHB] noted that—

> The destabilization of real estate values and a "credit crunch" have transformed the housing segment from a "leading" indicator to a "lagging" indicator.

NAHB Vice-President Jerry Howard further noted that for the first time since before World War II, the housing industry is not leading the economy out of a recession.

As a result, Mr. Speaker, more and more Americans find that home ownership has become an unreachable goal. NAHB notes that over the last 15 years, the home ownership rate for households headed by 30- to 34-year olds, has dropped 11 percentage points. Now, the nationwide credit crunch assures that even more of our citizens will be denied an opportunity to achieve the American dream—home ownership.

The intent of the legislation I am introducing today is to create a temporary Government-sponsored enterprise that will make available funds to lending institutions that now find it difficult to lend because of increased capital standards and regulatory burdens.

My bill would enable homebuilders to construct homes for low- to moderate-income families—under guidelines set up by State Housing Authorities, provide small businesses access to funds for bridge loans of up to 2 years and provide funds without creating massive additional Government and regulation. The legislation would make guidelines clear and easy to understand without creating a regulatory nightmare for the Office of Thrift Supervision, the Office of the Comptroller of the Currency and the National Credit Union Administration.

Mr. Speaker, this legislation, designed to sunset 5 years after its creation, would establish a corporation chartered by the Federal Government as a Government-sponsored enterprise whose function is to purchase or guarantee loans and facilitate their packaging into pools for sale to institutional investors. Its pur-

pose is to increase the availability of long-term credit to residential homebuilders and other small businesses at stable interest rates; to provide greater liquidity and lending capacity in extending credit to residential homebuilders and other small businesses; and to provide an arrangement for new lending to facilitate capital market investments in providing long-term small business funding, including funds at fixed rates of interest; and to enhance the ability of residential homebuilders and other small businesses to obtain financing by improving the distribution of mortgage financing and acquisition and development financing, particularly from institutional investors.

The sunset GSE would be funded by a $1.5 billion initial appropriation. Capital stock would then be sold to repay the U.S. Treasury with interest. Lending institutions receiving funds from the GSE, working in conjunction with the appropriate State Housing Authorities—which would establish guidelines and qualify buyers—would lend to homebuilders and small businesses, earning a percentage for administration of the loan.

The intent of this legislation is not to take over the role of Federal savings banks and commercial banks, but to provide a sunset GSE (5 years) to allow these financial institutions to work their way through the forest of regulatory burdens, while maintaining that all-important business relationship.

This legislation is a homeowners bill, a homebuilders bill, a jobs bill. And it is drafted to ensure that the ever-tightening safety net is not stretched further.

Mr. Speaker, I believe that this legislative attempt to alleviate the credit crunch and spur employment and growth by homebuilders and small businesses is deserving of support by this body. I would urge my colleagues to join me as a cosponsor of this important legislation.

## TRIBUTE TO THE HOLGATE LIONS CLUB

### HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. GILLMOR. Mr. Speaker, I want to take this opportunity to pay tribute to the Holgate Lions Club, a distinguished organization in the congressional district I represent.

On October 24, 1992, the Holgate Lions Club will celebrate its 50th anniversary. Lions Clubs have been a valued mainstay of the American tradition for generations. In cities and towns across the country, Lions Clubs provide commendable leadership for our communities. They represent the cherished idea that we are free to assemble, speak our minds, and that with this freedom comes the duty to serve our fellow man.

The Holgate Lions Club is no exception to this fine tradition. As the members of the club celebrate this auspicious anniversary, they should feel the pride that comes with being a part of a Henry County institution with a distinguished history.

Mr. Speaker, I hope my colleagues here in the House will join me in congratulating the Holgate Lions Club and commending its members for the many good deeds they have done over the years.

## QUESTIONABLE EFFECTS OF CFC

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. CRANE. Mr. Speaker, I would like to bring to your attention an issue of great concern to me which is the questionable danger of chlorofluorocarbon [CFC] on the Earth's ozone layer. Columnist Alston Chase discussed this issue in a article highlighting Congressman William Dannemeyer's proposal for an investigation.

Since the Rowland-Molina theory in 1973, CFC products, especially refrigerators, have been banned throughout the world and complete extinction of the product is expected by the year 2000, unless Mr. DANNEMEYER'S inquiry is taken seriously. The best replacement for CFC in refrigerators is a product called HFC 134A, which costs much more than the original product. I believe it is imperative that an investigation be conducted to verify the questionable effects of CFC. If not, the ban could result in a complete waste of money for consumers. The following article by Mr. Chase further explains the CFC issue. I recommend it as must reading to my colleagues.

[From the Washington Post]

HEAT IS ON FOR WORLD'S FRIDGES

(Alston Chase)

Life is filled with coincidence. Recently, California Rep. William Dannemeyer introduced a resolution calling for a presidential commission to investigate nagging questions about the role that chlorofluorocarbons—the chemicals used in refrigerators—play in depleting stratospheric ozone.

And as bad luck would have it, not long before Mr. Dannemeyer introduced his proposal, my refrigerator went on the fritz. One moment the raspberries in the freezer were hard as marbles. The next instant they were a dripping mass of jam. The fridge will cost several hundred dollars to fix. But we are lucky. At least this machine, which ran faithfully since my wife and I married in 1964, had the foresight to go kaput before 1995. After that date, repair will cost hundreds of dollars more.

Refrigeration will be more expensive because in 1987 the United States signed the United Nations Montreal Protocol, calling for a ban on the production of CFCs by the year 2000. And last February, the Senate accelerated this timetable. Frightened by NASA reports, which turned out to be false, that an "ozone hole" was forming over the Arctic, it passed a resolution introduced by Sen. Al Gore and accepted by President Bush mandating an end to CFC manufacture by 1995.

The best known replacement for CFC refrigerators—HFC 134A—is five times costlier and requires elaborate new machines whose life expectancies are three to seven years, as compared with 30 years for earlier equipment.

The worldwide cost of going cold turkey on CFCs is estimated to be a staggering $5 trillion. It will require scrapping 610 million refrigerators and freezers, 120 million cold storage lockers, 100 million refrigerator trucks and train cars, and 150 million car air conditioners. According to some estimates, 20 million to 40 million people may die in Third World countries each year from lack of proper refrigeration.

Given these costs, we should be certain that CFCs are hazardous before they are scrapped. But we are not. Rather, serious scientific questions remain.

The idea that CFCs cause ozone depletion is a hypothesis, not a fact. Conceived by chemists F. Sherwood Rowland and Mario Molina in 1973, this theory suggests that CFCs are transported into the stratosphere, where sunlight breaks them down into chlorine atoms. The chlorine destroys the ozone layer, which filters ultraviolet (UV) radiation from the sun, thus exposing people to more rays and increasing risks of skin cancer.

This theory gained currency after the National Aeronautics and Space Administration "discovered" the Antarctic ozone hole (discovered long ago but hitherto ignored) in 1985. In 1988, it was endorsed both by NASA's "Ozone Trends Panel" and by Mr. Gore, who chairs the subcommittee that oversees NASA activities. That year, the panel's "Executive Summary" claimed ozone had decreased 2 percent to 3 percent from 1969 to 1986, and blamed CFCs for the decline. But data supporting these conclusions were not released until December 1990, nine months after the United States had agreed to more stringent revisions of the Montreal Protocol.

Now that independent scientists have had the chance to study these data, many are asking questions. They find that the facts don't confirm the Rowland-Molina theory. They wonder:

Why worry about the 7,500 tons of chlorine annually produced by CFCs, when volcanoes emit 36 million tons of it each year?

Why, when stratospheric ozone levels today are what they were in 1962, do government scientists say there is a decline? Historical data show that ozone levels fluctuate wildly, paralleling 11-year sunspot cycles. NASA can show a negative trend only by comparing present levels with those in 1970, when sunspot activity (and ozone concentrations) had peaked.

Why were ozone holes observed in the past, long before CFCs were common? A Cambridge University study done in Norway from 1926 to 1945 found ozone concentrations below those later found in the Antarctic ozone hole. Similarly, the smallest amounts ever recorded in the Antarctic were made by French scientists in 1958.

Why is ultraviolet radiation declining instead of increasing? According to NASA, UV radiation should have increased a whopping 6 percent since 1969. But a 1988 study by the National Cancer Institute found an actual decrease in ground levels of UV radiation during this period.

How dangerous is the predicted rise in ultraviolet radiation really? According to NASA's worst-case scenario—that CFC production remains at 1976 levels—radiation would peak at 20 percent above what it is today. But as exposure to these rays is also 1 percent higher for every six miles one lives closer to the equator, this predicted increase is less than one would experience by moving from San Francisco to Carmel, Calif.

These doubts are among reasons why Congress should support Mr. Dannemeyer's call for a presidential inquiry. The ozone issue has been good for Mr. Gore, who may parlay it—and other environmental scare stories—into the vice presidency. But it may not be

so good for America. Rather, by putting politics ahead of science, we may have sold our birthright for a $5 trillion mess of unrefrigerated pottage.

## WOMEN AND MINORITIES IN SCIENCE

**HON. BILL GREEN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. GREEN of New York. Mr. Speaker, on September 16, 1992, Representative TIM VALENTINE and I sponsored a briefing on the status of women and minorities in science. I am pleased to commend to my colleagues the statement of a panelist at that briefing, Dr. Shirley Malcom, head of the Directorate for Education and Human Resources of the American Association for the Advancement of Science:

STATEMENT OF DR. SHIRLEY MALCOM

Providing an overview of the status of women and minorities in science and engineering means telling a "good news/bad news" story.

The reality of participation in S/E fields has shifted considerably over the past decade and a half. The overall proportions of women in science and engineering are growing. Women have increased their proportions of degree recipients at the bachelors, masters and doctoral level in all fields of science and engineering over mid-1970's levels.

Using trend data from the Commission on Professionals in Science and Engineering, we find that women have gone from receiving 20 percent of life sciences PhDs awarded to U.S. citizens by U.S. universities in 1975 to around 36 percent in the 1990's, from 7 to 21 percent of physical science PhDs; and from 2 to 14 percent of engineering PhDs.

The good news of rising participation by women in science and engineering is tempered by the reality of their continued underrepresentation in these fields (a "shift in share" of degrees takes a long time) and by the continuing challenges they face in advancement, (achieving promotion and tenure, positions of authority and power), treatment within the professions, salaries and workplace climate.

While we count as good news the increasing attention to minorities in science and engineering issues and the expansion of federal program options to address these, the bad news predominates. There has been little real growth in the overall degree production picture in the sciences and engineering for American Indians, Blacks and Hispanics. Blacks received 2.85 percent of bachelors degrees awarded in engineering in 1978–79 and 4.0 percent of such degrees in 1990. That is real growth of which the minorities in engineering effort can take real pride, but these numbers have been hard fought and hard to achieve. Hispanics received 1.78 percent of bachelors degrees in computer/information sciences in 1978–79, and by 1990 this proportion had grown to 2.9 percent. While these are gains to be celebrated, we have yet to see the flow through in real increases at the PhD level—the level from which we must draw the pool of faculty and researchers. Here percentages must give way to discussions of real numbers:

5: PhDs in mathematics and computer sciences to Blacks in 1990.

39: PhDs in engineering to Hispanic U.S. citizens in 1990.

46: PhDs in the life sciences to Blacks in 1990.

18: PhDs in psychology to American Indians in 1990.

And this is the product of all U.S. universities.

Many people believe that minorities are opting out of the basic sciences and engineering at doctoral levels to pursue professional degrees.

It is true that the number of minorities in medicine, for example, are higher than for the sciences, but even here, minorities remain underrepresented Blacks increased their percentages of MD degrees from 5 percent of total in 1975 to 6 percent of total in 1991. American Indians/Alaskan Natives increased their share of MDs from 0.2 to 0.3 in the same timeframe; Mexicans American grew from 0.9 to 1.7 percent of MDs and Puerto Ricans from 0.2 to 0.7 percent of MDs.

This is hardly the level of representation we will need as a country to serve the health needs of these communities, the needs to involve minorities in fundamental biomedical research, the need to have minorities who can serve as faculty and be role models and mentors to the next (and hopefully, growing number) generation of students working in the biomedical arena.

We have not been able to really move the numbers of minorities in science, engineering or medicine in the same way as we have seen the growth in participation by women. This is due to many factors, including old problems of the cost of education and the quality of pre-college preparation. We all understand that lack of opportunity to take challenging mathematics and science courses and to be educated by excellent teachers who expect that these students can learn present real problems in the pipeline.

We should be able to expect that systemic efforts being undertaken nationwide to improve the quality of K–12 science and mathematics education address these "excellence and equity" issues explicitly.

We know the fallout from our failures to address these issues: a tremendous loss of talent when young people are deprived and unfairly excluded from the opportunity to be part of the scientific and technological fields they might choose; and a loss to the scientific and technological fields of the talent, different experiences and insights, and multiple contexts these young people might provide.

In the Education reform we seek in science and mathematics, we must go after equity and excellence at the same time and plan to achieve both without sacrificing either.

But our problems are not just those of the K–12 system. Even if we graduate students from high school with science and engineering interests intact, we send them off to our colleges and universities to uncertain futures, where they may not find the nurturing and mentoring they need.

In the late 1980's AAAS received funding from the National Science Foundation to conduct a study of programs, policies and practices which might support the participation of students from underrepresented groups in the sciences and engineering. Over 500 higher education institutions were surveyed and some 250 provided information for this study (reported in Investing in Human Potential: Science and Engineering at the Crossroads by Marsha Lakes Matyas and Shirley M. Malcom). While the amount of data which emanated from this study was vast there are several pieces which should be highlighted here: the inability of most colleges and universities to provide even basic data on the demographics and status of science and engineering students at any level in the pipeline; lack of basic graduation and attrition data for S/E students; reliance on isolated project based interventions as opposed to structural or systemic approaches.

It is very difficult to design systems to support the movement of minority and women students into S/E fields if we do not understand where they are lost.

The lack of fundamental information about the movement of students into and out of science and engineering will hamper any efforts by colleges and universities to affect their recruitment and retention practices on behalf of *any* students.

Based on our analysis we proposed a structural approach to addressing these issues of recruitment and retention in our colleges and universities and contended that federal policy, especially in its structure for supporting R&D in colleges and universities, could play a catalytic role in promoting this change. This would include:

Strengthening the research capability of institutions with proven records of developing students in science and engineering from underrepresented groups, such as minority institutions and women's colleges;

Providing scholarship support for students from underrepresented groups to encourage participation and retention in S/E fields, especially for students who indicate an early commitment to graduate education;

Examining the relative effectiveness of institutional and portable sources of graduate support for students from underrepresented groups and torque the federal investment toward the more effective structure;

Closer monitoring of patterns of support for students being funded through assistantships tied to research grants;

Using program access by underrepresented groups as a major criterion in determining the award of grants for major research centers to maximize federal investment;

Encouraging enhanced collection of data and indicators of participation by underrepresented groups. This can be done by requiring that certain data be provided with submission of major proposals;

Providing support for a range of program structures and for the dissemination of the most effective of these; shifting funding from isolated projects to institution-wide coordinated efforts that can affect structural change.

So what is the bottom line?

We've come a long way toward realizing increased participation for women in science and engineering. We've come a little way in increasing minority participation for some groups, in some fields and at some levels. We've come a much longer way in understanding the nature of the change process that must occur.

We have yet to tackle and solve the advancement and career climate and structure issues for either women or minorities. Our policies and programs are not aligned so that research, education and human resources goals are consistent.

Clearly we have our work cut out for us.

## U.S. ARMS CONTROL POLICY IN THE POST COLD WAR ERA

**HON. DANTE B. FASCELL**
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. FASCELL. Mr. Speaker, the world has changed dramatically in the past few years. We have seen the fall of the Berlin Wall, the breakup of the Warsaw Pact, the collapse of the Soviet Union, the emergence of ethnic strife in Eastern Europe, and political and economic breakdown in the new Republics of the Commonwealth of Independent States.

These changes have effected new and significant developments in our arms control relationship with the former Soviet Union, in particular, and with the world, in general.

To meet these changes, a comprehensive arms control policy is sorely needed, not only to manage the emerging new world order, but to prevent it from turning into disorder and disarray.

During my tenure in Congress—particularly over the last 10 years—I have attempted to shape this country's approach to arms control by participating in, and in many cases, leading the fight to implement a comprehensive arms control policy.

This comprehensive arms control policy has many elements—some have been implemented by the current President, some were a long time in coming, and still some await implementation.

These elements include: deep reductions in strategic arsenals; an end to fissile material production and safe disposal of fissile material; a comprehensive nuclear test ban; a worldwide ban on chemical weapons; conventional arms control; controls on strategic defense systems; enhanced nonproliferation regimes; and concrete implementation of disarmament activities.

### STRATEGIC REDUCTIONS

Over the years, many in the Congress have been urging the administration to negotiate deeper reductions in strategic nuclear weapons at the Strategic Arms Reduction Talks [START] in Geneva—deeper than the administration was prepared to discuss. Given the changing situation in the former Soviet Union—namely the dissolution of our former enemy and main reason for United States production of nuclear weapons in such vast numbers—the House passed the fiscal year 1993 Defense authorization bill in early June, which called for phased reductions in nuclear arsenals worldwide.

Specifically, the House language called for: First, United States-Russian reductions in their strategic nuclear arsenals down to a level between 2,500–4,700; second, further United States-Russian reductions down to a level between 1,000–2,000, with lower levels negotiated for the United Kingdom, France and China; and third, stage-by-stage reductions in the number of nuclear weapons in all countries.

Following the House action, Presidents Bush and Yeltsin finally agreed at the June summit to deeper cuts in their strategic nuclear arsenal that went well beyond the START Treaty signed last year and the Bush and Yeltsin Proposals of earlier this year. From the current level of roughly 10,000 strategic nuclear weapons on both sides, the United States and Russia will reduce down to a range between 3,800–4,250 strategic nuclear weapons by the year 1999 and to a level between 3,000–3,500 by the year 2003.

From 10,000 nuclear weapons to 3,000–3,500 is no small feat. Such reductions are a recognition by the two countries with the world's largest nuclear arsenals, that nuclear weapons are ceasing to have such value. The ability to destroy the world 10 times over is just that—overkill. There are many who argue that reducing our nuclear arsenal even further, to between 1,000–2,000 nuclear weapons, makes sound arms control sense. I hope we move in this direction. The recent Bush-Yeltsin agreement is a first step down this road.

Along these lines, the final Fiscal Year 93 Defense Authorization Conference Report included the United States policy goal of building on the Bush-Yeltsin June Summit agreement, by entering into multilateral negotiations with Russia, the United Kingdom, France, China, and other nuclear armed states to reach further reductions in the number of nuclear weapons in all countries. The conference report also requires an annual Presidential report on the actions taken by the United States and other countries to achieve these reductions and to ensure that United States assistance to securely transport, store, and dismantle former Soviet nuclear weapons and missiles is being properly and effectively utilized, et cetera.

### FISSILE MATERIAL PRODUCTION BAN AND ULTIMATE DISPOSAL

As we implement reductions in our nuclear arsenals and are faced with the task of disposing of the fissile material from destroyed weapons, it makes eminent sense that we not produce more fissile material for new nuclear weapons.

Even without weapons reductions and eliminations, it made no sense to continue producing plutonium because the United States and the former Soviet Union have had a burgeoning stockpile of plutonium, about 100,000 kilograms each, with a half-life of 24,000 years.

Production of fissile material or access to such nuclear material is an integral part of making nuclear weapons. Without the fissile material, there can be no nuclear explosion. Therefore, it is incumbent on us to eliminate the production of this material in all countries, especially the emerging nuclear states.

A United States-Russian production ban would increase the political pressure on nuclear weapons states to halt their production and put their facilities under safeguards and on non-weapons states to forego the nuclear option.

For the past several years, the Congress has urged the President to enter into negotiations with the former Soviet Union to ban the production of fissile material for weapons purposes. The United States has not produced highly enriched uranium for nuclear weapons since 1964 and we have not produced plutonium for weapons purposes since 1988 because of the arms control, environmental and cost concerns of the Congress and the American people—and because we have so much plutonium. But the administration did not see the opportunity in our pause in production to negotiate with the former Soviet Union an end to their fissile material production for weapons purposes. But the Congress did.

In June, the House included in the fiscal year 1993 Defense authorization bill language again calling on the President to: First, engage the member States of the Commonwealth of Independent States in negotiations to end their fissile material production for weapons purposes, dismantle nuclear weapons, safeguard and permanently dispose of nuclear materials, extend this ban to a worldwide ban on the production of fissile material for weapons purposes, and engage in multilateral discussions on dismantlement, safeguard and disposal issues; second, report to the Congress on the progress of the negotiations and technical working groups established with other countries to examine and demonstrate cooperative technical monitoring and inspection arrangements for verifying the dismantlement of nuclear warheads and a ban on fissile material production; and third, use $10 million to carry out a program to develop technologies for the verifiable dismantlement of nuclear weapons, to safeguard and dispose of fissile material; and to develop reliable techniques and procedures for verifying a global ban on the production of fissile material for weapons purposes.

It was only after the House action that this administration finally saw one of its points of light when the President announced that the United States would not produce plutonium or highly enriched uranium for weapons purposes. However, the President has yet to make this a truly meaningful act by: First, calling on and negotiating with the Russians a verifiable end to their fissile material production for weapons purposes; and second, seeking a negotiated, verifiable worldwide ban on such production. The latter are two significant elements of a comprehensive arms control policy in the new world order.

The House and Senate have just completed their conference on the Fiscal Year 1993 Defense authorization bill and have agreed to include fissile material language described above in the final bill. Such action highlights the strong congressional leadership in this area, but we need the President to do his part.

As we dismantle nuclear weapons, either unilaterally or pursuant to arms control agreements, the fissile material needs to be disposed of in a safe manner. The Congress established several criteria to govern the transfer of aid to the former Soviet Union for the dismantlement of their nuclear and chemical weapons. One of the criterion states that the fissile material from destroyed nuclear weapons cannot be used in new nuclear weapons. United States-Russian discussions are underway to determine the ultimate disposition of this nuclear material. This matter is undergoing serious discussion in the U.S. Government and will be a matter for congressional input in the coming months.

### COMPREHENSIVE NUCLEAR TEST BAN [CTB]

For the past several years, the House has stood firm in its support for a comprehensive test ban. Recognizing that the administration has not fulfilled prior commitments to undertake next steps with Russia to achieve nuclear testing limitations and a comprehensive test ban, the House again, by a vote of 237–167

on June 4, included language in the fiscal year 1993 Defense authorization bill calling for a 1-year moratorium on United States nuclear testing for as long as the former Soviet Union does not test. Our hope was that such action would be another demonstration of congressional resolve and would encourage the administration to move forward on nuclear testing limits, including negotiations with the Russians for a CTB.

The Senate subsequently overwhelmingly approved in its energy and water appropriations bill on August 3 by a vote of 68–26, language calling for a 9-month moratorium on United States nuclear testing, further limitations on nuclear testing, and no United States nuclear testing after September 30, 1996 unless Russia conducts such a test. The Senate followed this action by adopting a similar provision in the fiscal year 1993 Defense authorization bill by a vote to 55–40 on September 18.

With a vote of 224–151 on September 24, the House joined the Senate in approving language in the energy and water appropriations conference report that: First, halts nuclear testing for the next 9 months; second, allows no more than 5 tests for safety over the next 4 fiscal years, with no more than a total of 15 tests in the next 4 years; third, no nuclear testing after January 1, 1997, unless a foreign state conducts such a test; and fourth, requires a Presidential report to be submitted to the Congress each year on a schedule for resumption of nuclear testing talks with Russia and a plan for achieving a multilateral comprehensive ban on nuclear testing on or before January 1, 1997 unless a foreign state conducts such a nuclear test, etc.

In an overdue change of policy and in response to congressional action, President Bush signed the energy and water appropriations bill on October 2, thus laying the groundwork for true cooperation between the United States, Russia, and the world community for a multilateral comprehensive test ban.

An initial end to United States-Russian testing would highlight a recognition that the United States and Russia not only seek quantitative constraints on their respective nuclear arsenals, but qualitative constraints as well. In this way, the development and deployment of new generations of nuclear weapons would be constrained. Furthermore, a United States-Russian CTB would demonstrate a commitment on their part to ending the nuclear arms race. This would signal to the world community that the United States and Russia are taking concrete steps to implement article 6 of the NPT, which calls for signatories to the treaty on the Non-proliferation of Nuclear Weapons [NPT] to end the nuclear arms race and to disarm.

Many countries have made implementation of article 6 of the NPT the litmus test for extending the treaty at its Review Conference in 1995. The goal of the NPT—to curb and control weapons activities around the world—is a key element of the world's nuclear nonproliferation regime. This regime and the integrity of the NPT must be preserved and strengthened.

Russia has not conducted a nuclear test since October 1990 and has extended its moratorium on nuclear testing through the end of the year. France has announced a suspension of their nuclear testing for the rest of the year and has called on all nuclear powers to end nuclear testing. While many threshold nuclear States are reluctant to participate in regional nuclear test bans, they may be more readily willing to participate in a worldwide ban.

In spite of these developments and continued congressional pressure, the President was close to missing another opportunity to take the lead in ending nuclear testing around the world—until today. Nothing makes better arms control, nonproliferation, economic, and environmental sense. In fact, every President since Eisenhower, with the exception of President Reagan—and until now—President Bush, has supported a CTB.

CHEMICAL WEAPONS BAN

The United States and Russia have agreed to utilize $25 million of the $400 million authorized for Russian weapons disarmament purposes, for activities necessary to begin Russian destruction of their chemical weapons. This represents a continuation of my longstanding effort to bring about a verifiable program to eliminate chemical weapons—a key element of a comprehensive arms control policy.

The first multilateral arms control agreement to seek the total elimination of an entire category of weapons worldwide has been concluded in Geneva. It is known as the Chemical Weapons Convention [CWC]. It will be presented to the United Nations this fall by the U.N. Conference on Disarmament and then heads of state will hold a signing ceremony early in 1993.

CONVENTIONAL ARMS CONTROL

In May of last year, the House Foreign Affairs Committee adopted a conventional arms transfer restraint policy, calling for U.S. leadership in replacing the conventional arms race with arms restraint. The President's Middle East Arms Control Initiative was announced several days after the committee action.

Congressional efforts in this area culminated in the October 1991 enactment of Public Law 102–138 which calls on the President to negotiate a multilateral restraint regime with the four other major arms suppliers—Great Britain, France, Russia, and China. This congressional effort was meant to jump-start the process toward restraint, to challenge ourselves and the world community to work together to stem the flow of arms and promote lasting peace in the region.

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. Nevertheless, arms sales continue at an alarming rate. Since the end of the Gulf war, there have already been over $20 billion in United States agreements, with over $10 billion being proposed by the Bush administration in September alone.

Many of us in the Congress remain unconvinced of the administrations' commitment to a restraint policy. We are concerned that selling 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. As proliferation of conventional arms continues to be a major concern, conventional arms control remains an important element of a comprehensive approach to arms control.

CONTROLS ON STRATEGIC DEFENSES

Support for strategic defense research consistent with our treaty obligations and national security requirements, has been a longstanding element of a comprehensive arms control policy advocated by the Congress.

As far back as 1984, when President Reagan's strategic defense initiative [SDI] was getting underway, I issued a report on the adverse arms control and cost implications of SDI. These concerns remain today, and, if anything, have intensified.

Support for SDI was initially touted as a necessary hedge against Soviet breakout of the ABM Treaty. The ABM Treaty has been an effective inhibitor of an arms race in defensive systems between the United States and the former Soviet Union. With the dissolution of our former adversary, the original purpose of a multilayered SDI has also dissolved. Now the administration has found a new mission for SDI: to protect the United States against ballistic missile threats from other countries. The problem with this new mission is that there are currently no countries—other than the former Soviet Union—with the capability of attacking the United States with ballistic missiles. Such a threat is at least 10 years away according to administration testimony. A far better hedge against this kind of threat is to strengthen the nonproliferation regime.

NONPROLIFERATION AND DISARMAMENT

Increasing proliferation risks in the nuclear, chemical, and conventional areas are a major threat to stability in this new era. The emerging new world order demands a strong nonproliferation policy.

Through export controls, supplier guidelines, a strengthened NPT, a worldwide end to nuclear testing, a worldwide end to fissile material production for weapons purposes and the safe disposal of this fissile material, we can better reduce and then subsequently manage the serious proliferation risks we are facing.

We are entering a period of general disarmament, disarmament manifested in bilateral and multilateral arms control agreements, and unilateral action.

Last year, the Congress initiated this move toward disarmament by authorizing $400 million to destroy nuclear and chemical weapons of the former Soviet Union. We were all pleased that the executive branch overcame its initial opposition and is now an enthusiastic supporter of this effort.

This year, in approving its new aid bill for the former Soviet Union, the House Foreign Affairs Committee authorized a total of $940 million in nonproliferation and disarmament activities to destroy and control the proliferation of weapons of mass destruction. Included in the $940 million is the original Fascell-Broomfield initiative (H.R. 4549) establishing the Nonproliferation and Disarmament Fund which authorizes $100 million for nonproliferation and disarmament activities.

The Russian aid legislation also provides $40 million in defense moneys to support international nonproliferation activities such as the International Atomic Energy Agency and the United Nations Special Commission

[UNSCOM] on Iraq. Such support is a recognition of the crucial role of these agencies in the process of disarmament.

In assessing the Iraqi nuclear and chemical weapons situation in particular. Rolf Ekeus, Director of the U.N. Weapons Commission, highlights the importance of disarmament and arms control in general. He states that:

The large amount of chemical weapons were not destroyed through bombing. Nothing of the research activities were really destroyed in the nuclear area. What has been destroyed is through the peaceful means of inspection. I would like to say that arms control has demonstrated that it is the way to destroy weapons and not through bombing and attacks.

In this regard, it is imperative that we support the United Nations and the International Atomic Energy Agency in their efforts to meet their responsibilities and the challenges of their charters, and most immediately to complete the task of disarming Iraq.

Moreover, it is imperative that we actively support the U.S. Arms Control and Disarmament Agency [ACDA] in its efforts to implement its mission and the challenges of its charter.

ACDA was created by the Congress in 1961 as a new agency of peace to deal with the problem of reduction and control of armaments looking toward ultimate world disarmament. According to the statute:

Arms Control and disarmament policy, being an important aspect of foreign policy, must be consistent with national security policy as a whole. The formulation and implementation of United States arms control and disarmament policy in a manner which will promote the national security can best be insured by a central organization charged by statute with primary responsibility for this field.

In the emerging world order, nonproliferation and disarmament concerns will be primary. The management and implementation of these and the other elements of a comprehensive arms control policy will be enhanced by a strong bipartisan working relationship between the Congress and the executive branch.

ACDA has the mandate and an opportunity to play a leading role in this endeavor. The committee looks forward to supporting and working with ACDA in the months and years ahead to achieve a coordinated arms control, disarmament, and national security policy that enhances our security at a lower cost and lower risk to human survival.

## IN HONOR OF FRANK AND FRANCES GUERRA CELEBRATING THEIR 70TH ANNIVERSARY ON NOVEMBER 25, 1992

### HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. PANETTA. Mr. Speaker, I rise today in honor of Frank and Frances Guerra who will be celebrating their 70th anniversary on November 25, 1992.

Frank was born January 17, 1901 in San Jose, CA. His wife, Frances M. Maita, was born February 25, 1905 in San Francisco, CA, where she later met and married Frank on November 25, 1922. After their wedding they moved together to Hollister, where they have lived and worked ever since. They gave birth to their first child, Anthony, August 29, 1923. The second, their daughter Josephine, was born October 28, 1925. They now have 4 grandchildren and 16 great-grandchildren.

In 1947, Frank started his own business, the Guerra Nut Shelling Co., with his brother, Carl and his son, Anthony. With hard work and dedication the business grew and has thrived ever since. Frank still goes to the Shelling Co. every day where he works with his son and daughter.

Frank and Frances have been longtime business and community leaders. They are also old family friends. I remember the days when my own father sold Frank walnuts from our grove. Like my own family, they are a family of Italian immigrants who came to this country to make a better life for themselves and their children. They valued family, community, and hard work. They are examples of the opportunities this country has to offer and of its people, who are dedicated to creating new frontiers for future generations.

Through the years, Frank and Frances have dedicated much time and energy to serving their community. In 1948, Frank ran for the Hollister City Council. He was elected and has served as vice mayor, police commissioner, airport commissioner, and pound commissioner. Frances has been and is still involved in children's services, and has given countless hours of dedicated service to this important organization. They have both worked hard to improve their communities, and we, the people of the 16th Congressional District of California, are deeply grateful for their contributions.

Mr. Speaker, I ask my colleagues to join me now in congratulating Frank and Frances on their 70th anniversary. Very few people are able to experience the kind of love and commitment that Frank and Frances have shared for so many years; their dedication to each other, to family, friends, and community is truly extraordinary. It is my sincere hope that they will share many more years of happiness together.

## ELIMINATE FEDERAL MANDATES FOR ILLEGAL ALIENS

### HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. DREIER of California. Mr. Speaker, today I am introducing H.R. 6098, which will eliminate Federal mandates that require States to provide benefits to illegal aliens. The Federal Government currently mandates that States provide a number of services to illegal aliens—including free health care and education—yet it fails to provide the necessary funds to carry out these expensive programs. Just because the Federal Government cannot afford to pay for special programs does not mean that it should impose that burden on the States.

Federal mandates for illegal alien benefits are one of the major problems facing my State of California as it attempts to deal with its current budget crisis. For example, under Medicaid—the cost of which is split 50–50 by the State and the Federal Government—the State must pay for the emergency health services of illegal aliens. As a result, many illegal aliens cross the border to go to emergency rooms in southern California for minor medical care, checkups, and to give birth to their children.

Like many States, health and welfare benefits make up approximately 75 percent of California's budget. A recent study by professors at San Diego State University conservatively estimated that California pays at least $15 million for illegal alien health care through its Medi-Cal program. Overall, the State pays around $27 million a year for illegal alien health care.

The Federal Government also requires that States take all children into the school system, from K–12. The study by San Diego State University says that this costs the State over $60.6 million annually. Colleges also charge out-of-State tuition to illegal aliens. It is highly ironic that schools can demand to know whether a student lives within the school district, yet they cannot inquire about one's immigration status.

H.R. 6098 eliminates the burdensome Federal mandates on States to provide these services; however, the States could continue to offer them if they wish to do so.

In addition, H.R. 6098 prohibits direct Federal financial benefits and unemployment benefits for illegal aliens. In a time when the Government has difficulty funding programs for its own citizens, benefit programs for illegal aliens are hard to justify. Illegal aliens are currently eligible for Federal housing, social services block grants, WIC programs, School Lunch and Breakfast programs, and Headstart. Although illegal aliens are not eligible for AFDC benefits, any children they have in the United States make them eligible. Mr. Speaker, I believe that if individuals are breaking the law by entering this country illegally, they should not be rewarded with financial and other benefits.

Mr. Speaker, the citizens of California and other border States are feeling overwhelmed by the influx of people pouring over the border illegally to take advantage of our generous benefit programs. Yet a problem arises when our cities cannot absorb these people, who end up living in abject poverty while straining our already scarce State and Federal resources. This legislation would alleviate the burden on States, and eliminate the perverse incentives that attract illegal immigration to the United States. I ask my colleagues to join me in supporting this legislation, which will help put an end to this growing crisis.

## IMPROVING CHILD SUPPORT ENFORCEMENT

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. MAZZOLI. Mr. Speaker, on September 30, 1992, the House Judiciary Committee, on which I am proud to serve, unanimously approved a measure to improve child support

collection. I hope the House acts expeditiously on this bill and sends it to the President for his signature.

During Committee consideration, I took the opportunity to express my strong support for the legislation. The text of my remarks follow:

STATEMENT OF REPRESENTATIVE ROMANO L. MAZZOLI

Mr. Chairman, I am pleased to support H.R. 5304, legislation that would prohibit state courts from modifying a child support order issued in another state.

I commend the gentleman from Massachusetts, Mr. FRANK, for his work on this legislation. The Committee's consideration of H.R. 5304 keeps the issue of child support in the forefront—its rightful place.

The need for uniformity in setting child support orders across state lines is a topic that was included in the report recently completed by the U.S. Commission on Interstate Child Support. H.R. 5304, I understand, would facilitate enforcement among states by requiring the appropriate authorities in each state to enforce the child support orders of sister states.

Mr. Chairman, on an increasing basis, I receive telephone calls and letters from Louisville and Jefferson County residents who are experiencing difficulty with obtaining their child support payments. Jefferson County Attorney Michael Conliffe, who is charged with enforcing child support orders in my community, has made progress in tackling what can be a very daunting challenge. However, much needs to be done and H.R. 5304 will help build on gains made in the collection of child support.

I was proud to cosponsor and to lend my support for H.R. 1241, the Child Support Enforcement Act of 1992, which this Committee and the House approved. Likewise, I support H.R. 5304 and I urge my colleagues to do the same.

## TRIBUTE TO THE HONORABLE LUCILE MEADOWS

### HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. RAHALL. Mr. Speaker, today, I want to recognize an individual who has contributed much of her time and efforts to being a servant of the public. The Honorable Lucile S. Meadows, delegate in the West Virginia House of Delegates, appointed to the House of Delegates in December 1990 and retired from the West Virginia House of Delegates after completing one term, representing the 24th Delegate District of the State West Virginia.

During Lucile's service in the House of Delegates, she was instrumental in the adoption of the resolution to rename the Cotton Hill Bridge in Fayette County, to the Charles C. Rogers Bridge in honor of Major General Rogers, an African-American from Fayette County, who was awarded the Congressional Medal of Honor for his valor in Vietnam.

Prior to Lucile's service in the West Virginia House of Delegates, she was a teacher and principal in the Fayette County School System and active in the National Education Association as well as the West Virginia Education Association. She is the recipient of numerous awards, including the Martin Luther King, Jr. West Virginia Holiday Commission's Living the Dream Award.

I, along with the citizens of the Fayette County community, have benefited greatly from Lucile's efforts. Lucile's service in the Fayette County community and throughout West Virginia has brought her to the forefront of many issues.

Lucile continues to remain active in various political and nonpolitical organizations, the West Virginia Federation of Democratic Women, Fayette County Black Caucus, and the NAACP to name a few.

## TRIBUTE TO THE UNIVERSITY OF CHICAGO

### HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. LIPINSKI. Mr. Speaker, I am pleased to rise today to recognize the University of Chicago on its centennial anniversary. The University of Chicago is one of the most outstanding universities in the United States.

Most of the world's respected universities are older than the University of Chicago. Oxford and Cambridge have existed for 800 years. Harvard was established three and a half centuries ago. Yet in the last 100, the University of Chicago has established itself as one of the world's greatest academic institutions. Its alumni and faculty have included 61 Nobel laureates—more than any other university.

University of Chicago's first president, William Rainey Harper, arrived in Chicago to create a university like none other. He wanted to balance rigorous research by faculty with a rich liberal arts education for students. His school would be one that would nurture both current and future scholars. With his vision, the University of Chicago has grown to be the respected institution it is today.

As the University of Chicago celebrates its anniversary, I commend the students, faculty, and alumni. We are proud to have a university in the State of Illinois that has contributed so much to the city of Chicago, the State of Illinois, the Nation, and our world. I know my colleagues join me in wishing the University of Chicago family all the best. I know we will celebrate many more achievements in the years to come.

## WORLDWIDE ELIMINATION OF CHEMICAL WEAPONS

### HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. FASCELL. Mr. Speaker, The first multilateral arms control agreement to seek the total elimination of an entire category of weapons worldwide has been concluded in Geneva. It is known as the Chemical Weapons Convention [CWC]. It will be presented to the United Nations this fall by the U.N. Conference on Disarmament and then heads of state will hold a signing ceremony early in 1993.

The successful conclusion of the Chemical Weapons Convention [CWC] and the achievement of universal adherence to the CWC will usher in a 21st century free of chemical weapons. That is why it is so important for the United States to continue to play a leadership role in eliminating chemical weapons worldwide and to recruit many other nations to work with the United States to make sure all nations adhere to the agreement. Success in concluding this final chapter on chemical weapons will depend on continued leadership from the United States and a comprehensive policy approach to the issue of chemical weapons.

Congress has been advocating a comprehensive policy approach to the chemical weapons issue for the last decade. Several aspects of this approach have involved heated struggle and disagreement between the legislative and executive branches. Now, however, there appears to be a broad consensus that progress in all aspects of this comprehensive approach is the only way to achieve the objective of total elimination of chemical weapons. The comprehensive approach on chemical weapons includes:

Support for a worldwide agreement to ban the use, transfer, and production of chemical weapons and totally eliminate them.

The Chemical Weapons Convention [CWC] is the first multilateral arms control agreement to outlaw an entire category of weapons of mass destruction. Forty nations at the U.N. Conference on Disarmament in Geneva have reached agreement this past August to prohibit the use, production, storage, and transfer of chemical weapons while also providing for their destruction.

The U.S. House of Representatives expressed its direct interest in the Chemical Weapons Convention negotiations when it appointed four Members of the House of Representatives, H. MARTIN LANCASTER, WAYNE OWENS, JOHN EDWARD PORTER, JOEL HEFLEY, to be observers to the Geneva chemical weapons negotiations. Representative MARTIN LANCASTER visited the negotiations several times, wrote several editorials proposing ways of advancing the negotiations—notably September 12, 1990 and April 7, 1992 editorials in the Christian Science Monitor and September 1992 editorial in the Washington Post—and sent letters to the President and administration officials offering his observations and recommendations regarding the negotiations. As chairman of the House Committee on Foreign Affairs, I have followed the negotiations closely and I have also written several editorials—notably in the Christian Science Monitor, June 20, 1990 and Washington Post, April 14, 1992—proposing possible solutions to CWC negotiating problems. I have also sent policy letters to the Secretary of State and the Director of the Arms Control and Disarmament Agency offering my analysis and recommendations regarding the CWC negotiations always emphasizing the continued importance of U.S. leadership at the negotiating table.

No new U.S. production of chemical weapons, particularly binary chemical weapons.

President Nixon halted chemical weapon production in 1969 and President Reagan at-

tempted to restart chemical weapon production at the beginning of his Presidency. For a decade the House of Representatives took a position of no new production and also specifically opposed the production of new binary chemical weapons. The House of Representatives finally convinced the executive branch of the foreign policy logic, arms control rationale, and good common sense of its position opposing the production of new binary chemical weapons. The House of Representatives prevailed in its argument that it was foolish to spend billions on new chemical weapons that were: technically flawed; rejected by our NATO allies; militarily useless; and morally repugnant. Congressional action effectively stopped a new generation of chemical weapons from being produced and deployed, thereby contributing to a policy focused on the elimination, not the production, of chemical weapons.

From 1980–90 there were key votes annually in the House of Representatives on the administration's proposal to begin production of new chemical weapons. Those votes were normally recorded as amendments or policy language in the Department of Defense authorization bills. Extensive GAO investigation of the binary chemical weapon program uncovered numerous flaws in the development and testing of these new weapons, seriously questioning their ultimate utility (GAO/PEMD–86–12BR). The proposed production of these new binary chemical weapons had serious foreign policy and arms control implications and, therefore, as chairman of the House Foreign Affairs Committee, I followed and opposed their production and frequently reported on their status—CONGRESSIONAL RECORD, Sept. 22, 1990, H7486; Nov. 10. 1988, E3767—held press conferences—June 11, 1986, Washington Post—and wrote editorials—Washington Post, June 17, 1985; Christian Science Monitor, May 21, 1986 with Representative JOHN EDWARD PORTER—arguing against their production.

Support for enhanced chemical weapons defense.

One unusual feature of chemical weapons is that there have been few, if any, times when their use has been either decisive in battle or decisively beneficial to the user. That is why adequate chemical weapons defense combined with an effectively verifiable chemical weapons ban is the most effective deterrent against chemical weapons use, not maintenance of a massive chemical weapons stockpile. Support for strong, well-funded chemical weapon defense was always part of the comprehensive chemical weapons policy that I supported in the House of Representatives. Several GAO investigations were conducted to determine the quality of U.S. chemical weapons defense and to recommend ways to improve these defenses (GAO/IPE–83–6, GAO/PEMD–86–11).

Enactment of chemical weapons sanctions legislation and support for other nonproliferation efforts.

The U.S. House of Representatives has legislated country specific chemical weapons sanctions against Iraq on September 27, 1988, H.R. 5337 and now against Iran in the Department of Defense authorization conference report for fiscal year 1993 which will be sent by the House and Senate to the President in October 1992. The House of Representatives also passed legislation to sanction chemical weapons activity worldwide and tighten U.S. export controls, H.R. 3033 on November 13, 1989, and this was finally enacted as Public Law 102–138.

Funding for chemical weapons destruction in the United States, Russia, and elsewhere.

The House of Representatives has consistently funded the U.S. chemical weapon demilitarization at significant levels. In addition, the House has recently legislated funding for a nonproliferation and disarmament fund to generate chemical weapon destruction not only in the former Soviet Union but elsewhere. The original nonproliferation and disarmament fund, H.R. 4549, was passed in the Committee on Foreign Affairs on March 11, 1992 and incorporated into the Freedom Support Act, H.R. 4547, which passed the House on August 6, 1992. The conference report of the Freedom Support Act will be send by the Congress in these last days of the 102d Congress to the President who has pledged to sign this measure into law.

THE FUTURE

There are many tasks left to be accomplished in order to reach the goal of a world free of chemical weapons in the 21st century. It is my hope that with continued, close cooperation between the Congress and the executive branch the United States will continue to play a leadership role to gain universal adherence to the Chemical Weapons Convention, to achieve a worldwide system of stringent chemical weapons export controls and sanctions, and to implement the Chemical Weapons Convention with an international regulatory administration to make sure that all aspects of the Chemical Weapons Convention are fully instituted and respected.

## OPERATION GREEN ICE

### HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. OXLEY. Mr. Speaker, last Monday Federal law enforcement officials announced a major victory in the war against international drug trafficking. The Cali cocaine cartel and the Italian Mafia were targeted in Operation Green Ice, a 3-year undercover investigation involving agencies in 8 nations; 153 people in 6 countries were arrested and $42 million and 1,100 pounds of cocaine were seized. Among those arrested were seven of the Colombian drug cartel's top money handlers.

It is my opinion that the success of Green Ice—possibly the most complex international money-laundering case ever attempted—was not adequately covered by the American press. Money laundering is the lifeblood of drug trafficking, and Colombia's most powerful cocaine cartel was dealt a devastating blow. But when it comes to drugs, apparently only bad news can be front page news.

I wish to commend Attorney General Barr, who authorized the investigation, and DEA Administrator Bonner, who oversaw it, for a job well done. I, for one, was quite impressed.

## TRIBUTE TO WILL ED COVINGTON

### HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to a longtime friend, Will Ed Covington, a native of my hometown of Mayfield, KY, who died at age 85 last April 5 in Paradise Valley, AZ.

Will Ed Covington was a well-known, very popular Kentuckian who was admired by those who knew him.

I first met Will Ed Covington in 1945 when my father, the late Dr. Carroll Hubbard, was his pastor at First Baptist Church, Ashland, KY. During the 8 years my father was minister of the Ashland Church, two of his favorite members of the congregation were Will Ed Covington and his wife Charlene.

Will Ed Covington, who was appointed a Kentucky Colonel by former Governor A.B. Chandler, served as past president of the Ashland, KY, Rotary Club and was active in the First Baptist Church in Ashland for 30 years before moving to Arizona.

He also played football at the University of Kentucky and served as team captain his senior year.

Surviving are his wife, Charlene Covington; three daughters, Lucy McKenzie of Des Moines, IA, Suzanne Briganti of Annapolis, MD, and Kathy Weisel of Hudson, OH; a brother, Hunt Covington of Mayfield; a sister, Lucy Reminger of Fort Worth, TX; 10 grandchildren and 13 great-grandchildren.

My wife Carol and I extend our deepest sympathy to the Covington family.

## CONGRATULATIONS, TAIWAN

### HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. SCHAEFER. Mr. Speaker, on October 10, 1992, the Republic of China celebrates its 81st National Day. I want to take this opportunity to congratulate Taiwan on its National Day, and to take note of its stunning achievements, especially in the economic sphere.

In 1959, Taiwan's per capita gross national product was about $120. By 1990, it was nearly $8,000 and is ranked 25th in the world. Disposable family income in Taiwan averages $20,000 per household, and continues to increase. This economic success would be remarkable for any country, but considering Taiwan's limited natural resources, this success is almost incredible. Clearly, Taiwan has industrious people and wise economic policymakers.

On Taiwan's 81st National Day, I rise to congratulate the leadership and people of the Republic of China on Taiwan and wish them further prosperity and progress.

## TRIBUTE TO RETIREES OF THE STERLING HEIGHTS FIREFIGHTERS

### HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. LEVIN of Michigan. Mr. Speaker, I rise today to pay tribute to the 1992 retirees of the Sterling Heights Firefighters, of Local 1557.

Inspector Arthur Fernandez was hired as a pipeman on September 13, 1968, was promoted to sergeant on July 1, 1974, and promoted to fire inspector on June 11, 1990. Inspector Fernandez was named the Fire Department Employee of the Month in January 1988 for showing enthusiasm for his position throughout his career and for representing the fire department with pride in every assignment in which he participated. Also noted was the camaraderie he exhibited which had a positive effect on his fellow employees. During his career, Inspector Fernandez received many letters of thanks from citizens and organizations for the caring manner in which he carried out his service to the fire department. After a distinguished career, he retired on July 25, 1992. He and his wife, Kay, have three children and two stepchildren.

Capt. Jerry Dameron started his service with the Sterling Heights Fire Department as a pipeman on March 13, 1967. He was promoted to sergeant on July 24, 1972, and promoted to captain on September 22, 1990. Captain Dameron was honored by the Sterling Heights High School Key Club in 1982 for contributing outstanding services to the youth of the community and for raising funds for underprivileged members of the community. Others also recognized the contribution made by Captain Dameron who received numerous letters of thanks and appreciation from citizens and organizations for the caring manner he demonstrated at emergency scenes and the programs he participated in, especially as a CPR instructor. A graduate of Macomb Community College in 1976, Captain Dameron retired on September 19. He and his wife, Rosemary, have three children.

Inspector W. David Lopez joined the Sterling Heights Fire Department June 29, 1970, and served with distinction until his retirement on May 18, 1992. An acting sergeant for several years, Inspector Lopez was commended for his professional attitude. He was certified fire inspector by the State of Michigan Department of State Police Fire Marshal Division and presented numerous public education programs as firefighter and fire inspector. He is married to Vicky.

Lt. Thomas Wisniewski began his career with the Sterling Heights Fire Department on September 26, 1969, and was promoted to lieutenant on March 18, 1989. Lt. Wisniewski was known for his professionalism and his ability to communicate well with his fellow officers and firefighters. In August 1989, he was named the Fire Department Employee of the Month for continuing to demonstrate his dedication and loyalty to the department by supporting its functions and activities. It was noted in his commendation that Lt. Wisniewski's peers held him in high regard and respected his outstanding service. Even after having surgery on his back, Lt. Wisniewski continued to serve on limited duty. He is married to Loretta, is a strong force in the lives of his many nieces and nephews, and he retired from the department on September 30, 1991.

## REFORM THE CHILD SUPPORT SYSTEM

### HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. GINGRICH. Mr. Speaker, I recently received a touching letter from Winona Wadsworth about the flaws of the current child support system.

I urge my colleagues to read this letter and enact truly effective reform of the child support system so that we can assist America's single parent families, and Ms. Wadsworth and her children will receive the support which they need and deserve.

*Lithia Springs, GA, July 17, 1992.*

Hon. NEWT GINGRICH,

*Rayburn House Office Building, Washington, DC.*

DEAR CONGRESSMAN GINGRICH, the purpose of this letter is to state my opinion on the subject of Child Support.

I have been divorced for almost three years now and have custody of two children. The father is behind in child support (over $6,000) and now has stopped making any support payments at all. He stopped the children's medical insurance and I paid for this for over a year. He believes he has the privilege to make these payments when he chooses to do so and in the amount that he decides upon. He filed for divorce and he agreed to these amounts. I have yet to keep the children from seeing their Dad or spending extra time with him. He is the one that gets to take them to Six Flags, to Braves games, out to eat, etc. It was necessary to file a joint income tax return for the last year we were married even though we were divorced. He signed my name to IRS documents and did so without my knowledge and consent. He signed my name to the state and federal checks, cashed them, and I have yet to see a penny. I repeat, he did all of this without my knowledge. On several occasions he has forced his way into my home, ridiculed me in front of the children and physically attacked me.

We are now in the process of going to court because he has decided he wants custody of both children and wants me to pay child support. My attorney assures me that this will not happen and he will have to pay all back payments. But I am in doubt of this!

Where is the judicial system when it is needed? Where are the laws that protect the custodial parent from harassment and interference?

It is my strong belief that stricter laws need to be passed to ensure the well-being of children in such instances that I have just stated. I feel that I have been violated long enough. I am a victim caught up in the legal process of playing the "waiting game."

Where is the legal system when it is needed to protect the innocent?

Sincerely,

WINONA M. WADSWORTH.

## A CONGRESSIONAL TRIBUTE TO THE METROPOLITAN STEVEDORE CO.—RECIPIENT OF THE 4TH ANNUAL SALUTE TO INDUSTRY AWARD

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. ANDERSON. Mr. Speaker, on Friday, November 13, 1992, the Harbor Association of Industry & Commerce [HAIC] will honor the Metropolitan Stevedore Co. with the Salute to Industry Award. This prestigious award is presented to companies that provide outstanding service and significant economic contribution to the South Bay area. The Metropolitan Stevedore Co. and its president and CEO, Mr. Brian Harrison are truly deserving of this high honor. It is with great pride and pleasure that I rise today to pay tribute to this organization and my friend, Brian Harrison.

At the beginning of this century, the simplest ship's cargo required specialized handling and Metropolitan Stevedore Co. was there to provide this service. Founded in 1923 by seven men, Metropolitan Stevedore Co. has handled cargo for worldwide shipping lines and has become one of the principal cargo connectors for the ports of Los Angeles and Long Beach. Over the past 70 years, Metropolitan has grown to employ over 450 people, with an annual payroll that exceeds $85 million, making it one of South Bay's major employers. Metropolitan's revenues generate State, county, and local taxes in excess of $1.5 million.

Metropolitan is not a company to rest upon its laurels. It has grown and also kept pace with the many new advances in machinery this century has witnessed. Gantry cranes capable of moving 30 20-ton containers an hour have replaced the rope slings and two-wheel handcarts of years past. Additionally, one of the most sophisticated dual-loader dry bulk facilities is operated by Metropolitan. The stevedore's job has also been modified over the years, dockworkers must now be able to operate this high-speed equipment. Another indicator that Metropolitan has changed with the times, is that today women can be seen operating forklifts and driving trailer rigs next to their male counterparts.

In the course of a day, Metropolitan handles many diverse products and materials, ranging from bulk commodities, containers, and automobiles to citrus fruits, steel, and general cargo. In addition, Metropolitan is responsible for the dispatch of passengers and luggage of the cruise ships which dock in the harbor.

Metropolitan Stevedore Co. has long recognized that a clean, environmentally sound harbor is vital for their business and the country. Therefore, it comes as no surprise that Metropolitan has implemented procedures and invested in equipment that protect this very fragile environment. Air pollution controls that prevent dust particles from escaping into the atmosphere and specially designed settling tanks to prevent contamination of surrounding waters are but a few of the measures the company has taken.

The success of Metropolitan Stevedore Co. can be attributed to many factors, its dedi-

cated employees, expert service, and my dear friend Mr. Brian Harrison, president and CEO. Born in Port Talbot, Great Britain, Brian became a naturalized citizen in 1959. Early on in his seafaring career, Mr. Harrison joined Associated Banning Co. as a stevedore superintendent. He brought a wealth of experience and knowledge to this position and when Associated Banning Co. was acquired by Metropolitan, he raced to the top of its ranks. He is a distinguished civic leader and an outstanding gentleman.

Mr. Speaker, my wife, Lee, joins me in extending this congressional salute to Metropolitan Stevedore Co. and Mr. Brian Harrison. An organization whose commitment to the betterment of the South Bay community has been demonstrated through its support of the Wilmington Boys and Girls Club, the Long Beach Boy Scouts, and the San Pedro and Peninsula Hospital. We wish Brian and the company all the best in the years to come.

## TRIBUTE TO BOBBY CZYZ WORLD CRUISERWIEGHT CHAMPION

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. ROE. Mr. Speaker, On Sunday, October 25, 1992, at 10 am World Cruiserweight Champion Bobby Czyz will be honored at Station Plaza in Pompton Lakes, NJ by the New Jersey Boxing Hall of Fame. His many friends and family will be on hand to honor and thank him for his worthy efforts on behalf of boxing in New Jersey and our Nation.

Bobby Czyz was born on February 10, 1962 in Orange, NJ. He is the son of Louise and Robert Czyz, Sr. and has two brothers and one sister. Bobby ran track and played basketball at Lakeland High School in Wanague, NJ. He then went on to great fame as one of the most skilled boxers in the world.

Bobby began boxing when he was 6 years old, eventually choosing the toughest profession in the world in which to make his living. Battling Bobby is a throwback to the brawling style of yesteryear, when he gets in the ring you can bet on an exciting night. As an amateur, he compiled a 24–2 record. He turned professional in 1980, knocking out Hank Whitmore in his debut.

Bobby quickly ran off a string of victories against Robert Sims, Elisha Obed, and Oscar Alvarado. He was outpointed by Mustafa Hamsho, suffering a broken hand in the process. Battling back through this and other misfortunes, he realized his dream when he squared off against IBF Light Heavyweight Champion Slobodan Kacar. Bobby won in the fifth round and was now a world champion. He held this title for over 1 year. In 1991, he won a 12-round decision over Robert Daniels to win the WBA Cruiserweight Championship, which he has successfully defended.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of Bobby Czyz, who has contributed so much to the quality of life of his fellow citizens. It gives me great pleasure in joining them to honor Bobby with this congressional salute.

## TRIBUTE TO THE DELNICKY AMERICKY SOKOL MOVEMENT

### HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. GREEN of New York. Mr. Speaker, I rise today to mark the occasion of the 100th anniversary of the Delnicky Americky Sokol movement. To commemorate this auspicious moment, a gala celebration will be held on Sunday, November 15, 1992.

The D.A. Sokol movement has a proud history based upon the philosophy of their "founding fathers" which promotes the ideals of "A Sound Mind In A Healthy Body." With their own resources, they initiated the building of Sokol gymnasiums, libraries, cultural centers and summer camps. Amateur theatricals, choral groups, lectures, and debates are as much a part of the training program for its membership as regular attendance at the gymnasium for physical activities.

Although their headquarters are located in Astoria, NY, the D.A. Sokol's membership hails from the Metropolitan New York City area, and extends across the entire United States. Further, since its original inception, the main effort of the membership has turned to participation of cooperative Sokol programs on an international scale.

At this time, I should like to join my colleagues in commending the Delnicky Americky Sokol movement for its dedication and contribution to their community and to the country. I extend my very best wishes on its 100th anniversary, and I wish D.A. Sokol many more years of success.

## SCHOOL-BASED CHILDHOOD IMMUNIZATION PROGRAM ACT

### HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mrs. SCHROEDER. Mr. Speaker, today, I am introducing the School-Based Childhood Immunization Program Act—one component of my three-pronged approach to fully immunize and protect children from major childhood illnesses, many of which we thought were eradicated long ago.

The first component involves KIDSNET (H.R. 3147) which I introduced last year. KIDSNET declares childhood immunization a national emergency, along with Head Start and WIC, so that under the terms of the budget agreement, all three can be fully funded by 1996.

Another component requires examining and dealing with the unrelenting and even ruthless drug company practice of balancing their profit margins on the backs of children. Drug companies are notorious for escalating prices beyond a reasonable and even generous profit. A Senate Aging Committee report found that prescription drug prices rose 152 percent in the 1980's, nearly three times the rate of general inflation.

For childhood immunizations, the rates of increase are even more startling: between 1980 and 1990, increases in the costs of both public and private sector vaccines ranged from 400 percent to 4,500 percent. To top it off, there are only one or two drug manufacturers who still produce and market the vaccines—leaving the American consumer and the Federal Government little choice.

The third component entails the bill I am introducing today, the School-Based Childhood Immunization Program Act, which would fund up to 10 school districts to establish the neighborhood school as the family friendly vaccination spot and would use school nurses to coordinate the community's immunization program.

Most States now require that all children be immunized in order to attend school. This has resulted in nearly universal immunization among school-age children. There are growing pockets of children however, whom we miss—migrant children, immigrant children, and a growing number of homeless children in urban, as well as rural and suburban communities, who are in school without full or adequate immunization.

The largest group of children at risk of contracting preventable childhood illness, such as measles, mumps, and whooping cough, are infants and preschool children. Three out of ten 2-year-olds are not adequately immunized. A recent assessment of preschool immunization levels in Colorado showed that only 61 percent of the children had received immunizations appropriate for them as they reached age 2.

As a result, the incidence of purely preventable childhood diseases, such as measles, is on the rise—some 30,000 children fell victim to measles in 1990, with the highest incidence in the unvaccinated preschool population. More children died of measles that year than in any other year since 1971.

Other countries manage to do much better. Immunization rates for preschool children against diphtheria, tetanus, and pertussis average 41 percent higher in many Western European nations than in the United States, and mean polio immunization rates are 67 percent above United States figures.

Even developing nations seem to have a leg up on the United States. UNICEF says the rates of immunization among infants in countries like Botswana and Brazil far surpass what the United States has been able to accomplish.

Reaching the unvaccinated population in the United States has been problematic for a variety of reasons. First, children cannot be reached if their parents have no access to the health care system. Over 9 million children have no health insurance. And, even when insurance is available, there is no guarantee that insurance will pay for the immunization. Fewer than half of conventional, employer-based insurance policies cover basic preventive services for children, such as immunization.

Nearly half of all immunizations are provided in the public sector at health departments or community health centers because the cost of immunization in the private physician's office has become prohibitive—especially when parents have no insurance. As a result, the public health sector has become overwhelmed. Long waiting lists for complete well-child exams,

postponed appointments, and inconveniently located, understaffed clinics deter timely immunizations.

The administration's initial efforts were focused on several small Federal demonstration efforts through the Centers for Disease Control to reach unimmunized preschool children through other public programs, such as AFDC or WIC offices. This approach makes some sense. A recent survey of 600 parents of unvaccinated, vaccine-eligible preschool children with measles indicated that from 46 percent to 92 percent were enrolled in one or more public assistance programs, including AFDC, Medicaid, WIC, and Food Stamps.

But it should not be the only approach. Many unimmunized children don't participate or are not eligible for these Federal programs and will not be immunized through this route. A survey of four cities with the largest outbreaks of measles revealed that Hispanic preschool children who came down with measles were much less likely to be enrolled in Federal assistance programs than their black counterparts.

Not to mention how overwhelmed the staff already are at many of these programs, such as WIC. One of the CDC demonstration sites for improving access to immunizations—a WIC clinic in New York—initially had to turn away 150 children because no one was available to actually give the shots.

A serious provider shortage was one of the most significant barriers identified by the National Vaccine Advisory Committee. According to Assistant Secretary for Health Dr. James Mason, under ideal conditions, children would receive immunizations in the context of a comprehensive preventive health care visit, but "our system is not user friendly and misses many golden opportunities." In most circumstances, according to the Assistant Secretary, vaccines can be administered without physician evaluations. Nurses can screen for precautions and contraindications, refer kids at risk of complications to a physician, and vaccinate the rest.

Given the urgency of the crisis, the strain in the public health system, and even the total absence of physicians in some areas, we need to explore alternative providers and alternative locations.

My proposal does just that.

Public schools are still the only universally available institution for children in every community—the one central location all parents know about and can use despite their income or health insurance status.

This bill establishes an immunization program to be run by a school nurse in up to 10 schools in areas where immunization rates are lowest or the incidence of childhood communicable diseases is highest. Not only will the school nurse be available to immunize school children, they will be required to notify parents that vaccinations will be provided at school free of charge for infant and preschool siblings.

The bill also requires that the school nurse coordinate a community education program—working with county birth registries, health departments, community health centers, hospitals, and other groups to get the word out that immunization is important and that vaccines can be obtained readily at the local school.

For many children, school health programs become their only source of care and the school nurse their only contact with a health care provider. At the same time, the children seen by school nurses are increasingly coming to school with serious health problems that affect their ability to learn.

But because of State cutbacks in recent years, too few schools have their own school nurse and even fewer an organized school health program. In many instances, one school nurse may be juggling responsibilities for a multitude of schools with thousands of students.

Pittsburgh is one model program that employs school nurses to work in conjunction with community health centers to provide comprehensive services to the most vulnerable children. Teachers, nurses, and doctors are working together to detect problems, treat them and keep track of them through the child's school years, and make adjustments in the classroom.

The intent of this proposal is to establish a family friendly place where parents can bring all their children for the complete vaccination series, with no hassles, no medical bills, and less waiting. But the goal is also to reestablish the integrity of school health programs—like in Pittsburgh—and get school nurses back in the schools. For many children, this could mean the difference between good health and serious illness.

The administration's own advisors agree. A panel of business executives, labor leaders, and health care experts, appointed by Secretary of Health and Human Services, Dr. Louis Sullivan, has drafted recommendations for improving the Nation's health care system. The panel recommends a much larger role for clinics in schools, saying they should offer basic health care, including immunizations and screening to detect vision or hearing problems, to all children from infancy through sixth grade.

I urge my colleagues to support this approach. It is a small demonstration effort that will not solve the whole immunization crisis, but along with other CDC demonstrations, makes a step in the right direction.

Measles and whooping cough are warning signals that there is something seriously wrong with our health care system and we must work toward revamping the Nation's health care policy. But until Congress and the administration agree on major health care reform, we must take some action before an otherwise preventable childhood epidemic claims the lives of any more young children.

A fact sheet follows.

THE CRISIS IN CHILDHOOD IMMUNIZATION

PREVENTABLE CHILDHOOD DISEASES ON THE RISE

In 1990, nearly 27,000 cases of measles were reported, 17 times the all-time low number in 1983, resulting in almost 90 deaths; 80% of cases occurred in persons who were never vaccinated. Almost half (47%) of the 1990 cases were reported among preschool-age children. (Roper, 1991; National Vaccine Advisory Committee [NVAC], 1991).

Before falling to 6,000 in 1989, mumps cases increased 330% between 1985 and 1987 (from 2,982 to 12,848). (National Association of Children's Hospitals and Related Institutions [NACHRI], 1991).

In 1989, 4,157 cases of pertussis (whooping cough) were reported, up from 1,730 in 1980. However, due to significant underreporting, the number of whooping cough cases occurring annually may be as high as 30,000 to 125,000. (Centers for Disease Control [CDC], 1991; Sutter and Cochi, 1992).

Approximately 10,000 cases of hemophilus influenza type b meningitis, preventable with the Hib vaccine series, occur each year in children less than 18 months of age. More than 300,000 people in the U.S. become infected with hepatitis B each year; 30,000 of these cases occur in infants infected perinatally. This vaccine-preventable chronic infection leads to 5,000 deaths each year. (NACHRI, 1991).

Between 1989 and 1990, there was a nearly three-fold increase in the number of reported rubella cases (from 396 to 1,093). (Cooper, 1991).

In the Washington, D.C. metropolitan area in 1990, more than 500 children contracted preventable diseases, including measles, mumps, and whooping cough. (Metropolitan Washington Council of Governments [MWCG], 1991).

THE COST OF IMMUNIZATION SKYROCKETS BEYOND INFLATION

Between 1980 and 1990, public sector vaccine prices for the diphtheria, tetanus, and pertussis (DPT) vaccine alone increased by 4,500%. (National Vaccine Program, 1991).

About half of immunizations in the U.S. are delivered through the public sector; the other half through private physicians. In 1992, fully immunizing a child in a public health clinic cost $113.20 compared with the 1982 cost of $6.69. The 1992 estimated cost for fully immunizing a child in the private sector is $464.39, including physician office visits. (NACHRI, 1991; Report of the Interagency Committee on Immunization [RICI], 1992).

From 1979 to 1988, the cost of immunizing a child in Texas rose 566%. (Cooper, 1991).

CHILDHOOD DISEASE COSTLY/IMMUNIZATION PROVES COST EFFECTIVE

Every dollar spent on immunizations saves from $10 to $14 in later health care costs. (Select Committee on Children, Youth, and Families, 1990).

Hospital charges for children with measles admitted to 46 hospitals in 1988 averaged $3,761 per child. Total charges for hospitalizations or 400 children with whooping cough were over $2.5 million in 1988, compared to the approximately $37,000 it would have cost to immunize them. (NACHRI, 1991).

Recent outbreaks of measles in Dallas cost the city $650,000 in hospital and other related costs. It would have cost the city only $9,000 to fully immunize all of the city's children. (Cooper, 1991).

The cost of treating congenital rubella syndrome is $354,000 over a lifetime. (U.S. Department of Health and Human Services, 1990).

IMMUNIZATION RATES FAIL TO IMPROVE FOR INFANTS AND PRESCHOOLERS

One-fourth of all preschoolers and one-third of all poor children are not fully immunized. In a survey of nine major U.S. cities, no more than four in ten children were properly vaccinated by age 2. The percentages ranged from 10% in Houston, Texas, to 42% in El Paso. (NACHRI, 1991; CDC, 1992).

More than 50% of children ages 2 and younger in Washington, D.C., have not received proper immunizations. In surrounding communities, the percentage of children ages 2 and younger without adequate immunization ranged from 65% in Prince William County to 24% in Montgomery County. (MWCG, 1991).

U.S. IMMUNIZATION RATES WORSE THAN IN BOTH DEVELOPING AND INDUSTRIALIZED NATIONS

Immunization rates for preschool children against DTP average 41% higher in many Western European countries than in the United States, and mean polio immunization rates are 67% above U.S. figures. (Williams, 1990).

In 1985, 61% of U.S. preschool children were immunized against measles. Though this rate was higher than those of West Germany (50%) and France (55%), it was 30-50% lower than in Denmark, Norway, and the Netherlands. (Williams, 1990).

In 1988-1989, 16 countries, including Bulgaria, Hungary, Greece, Brazil, China, Mexico and Romania had higher infant immunization rates against polio than the U.S. Fifty-five nations, including Mexico, Brazil, Hungary, Romania, China, Iran and Botswana had higher rates than those for nonwhite infants in the U.S. (Children's Defense Fund, 1991).

MILLIONS OF CHILDREN LOSE OUT ON TIMELY VACCINATIONS BECAUSE OF INADEQUATE HEALTH CARE/FINANCIAL AND OTHER BARRIERS PERSIST

More than 6 million U.S. children do not have a source for obtaining routine care, and based on 1988 survey data, nearly one in five (12 million) did not make a visit for routine care within an appropriate time interval. Studies of unvaccinated children have shown that about one-third had one or more health care visits at which an opportunity was missed for vaccination. (St. Peter, Newacheck, and Halfon, 1992; RICI, 1992).

Over 9 million children have no health insurance, but even when insured, children do not receive vaccines because policies exclude coverage for basic preventive care; only 45% of employment-based, conventional health insurance programs and 62% of preferred-provider plans cover childhood immunizations. In 1989, 77% of pediatricians in direct patient care participated in the Medicaid program, down from 85% in 1978. (Partnership for Prevention, 1992; Yudokowsky, Carland, and Flint, 1990.

Half of the 54 immunization program managers surveyed in 1990 identified significant policy and resource barriers that limited access to vaccinations. Policy barriers included: immunizations available by appointment only (93%); requirements for physical examination prior to immunization (56%); need for physician referral in order to be vaccinated (41%); requirements for enrollment in well-baby clinics in order to be immunized (37%); and administration fees (22%). Resource problems included: insufficient clinic personnel (70%); inadequate clinic hours (56%); and too few clinic locations (15%). (NVAC, 1991).

MINORITY CHILDREN LESS LIKELY TO BE PROTECTED AGAINST MAJOR CHILDHOOD ILLNESSES

In 1990, African-American and Hispanic preschool children are at a four to seven-fold higher risk of measles than other preschool children. (Roper, 1991).

A California survey of kindergarten entrants revealed that 50% of white children were up-to-date on immunizations by their second birthday compared with only 32% of Hispanic children. In a Philadelphia survey of 18 predominantly Hispanic schools, only 30% of children with Hispanic surnames had completed the primary immunization series by age 2. (Delgado, 1991).

Almost one-third of Hispanic children and nearly half of African-American children are not covered by private or public health insurance compared with 17% of white children. (National Black Child Development Institute, 1991; Delgado, 1991).

## COMMEMORATING THE SPRINGFIELD COMMISSION ON INTERNATIONAL VISITORS ON THEIR 30TH ANNIVERSARY

### HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. DURBIN. Mr. Speaker, I rise today to recognize and acknowledge the excellent work performed by the Springfield Commission on International Visitors upon its 30th anniversary. The commission has performed an invaluable service by bringing the visitors of the world to Springfield, and showing them all we have to offer.

In 1959, the city of Springfield was requested to assist international visitors traveling to the home of Abraham Lincoln to visit the Lincoln historical sites. The International Visitors Program of the U.S. Information Agency was created in 1961 and the Springfield Commission was established 1 year later. Members of this commission are appointed by the mayor, and serve a 3-year term. These civic minded citizens are homemakers and professionals, both active and retired. The Springfield Commission provides visitors with professional, community, and family experiences, which offer visitors insights into all aspects of American life.

The commission serves foreign visitors and students by contributing to their appreciation and understanding of the history and culture of our Nation, city and State, increasing Springfield's international reputation and further promoting greater international friendship and understanding. Operating in conjunction with the U.S. Agency on International Development and the U.S. Information Agency, the commission enables current and future foreign leaders to experience the varied social and cultural opportunities the heartland has to offer.

I would like to commend the mayor of Springfield, Ossie Langfelder, for his continued support of the commission. I would also like to commend the Springfield Commission's chairman, Mr. Darrell D. Carter, and the executive director, Ms. Keya Dennis, for their dedication to fostering greater understanding between Springfield and the rest of the world. The fine staff is supplemented by as many as 300 equally committed volunteers who assist over 1,800 visitors annually.

September was designated "International Visitor Month." Mr. Speaker, it is my pleasure to introduce a resolution to commemorate the anniversary of the commission and recognize the Springfield Commission on International Visitors, its volunteers, and its staff, on 30 years of exemplary service.

## COUGHLIN CONSTITUENTS SUPPORT PRESIDENT'S INITIATIVES FOR HEALTH CARE, JUDICIAL REFORM, LAW ENFORCEMENT ASSISTANCE, AND HOME AND BUSINESS OWNERSHIP

### HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. COUGHLIN. Mr. Speaker, I would like to report to the House of Representatives the results of my annual constituent questionnaire.

In responding to my 1992 Annual Congressional Questionnaire, a significant number of respondents, 70.6 percent, supported a national health care system which would expand private health insurance to include all individuals over a system with the Federal Government as the sole provider and payor.

Similarly, a significant number of respondents, 74.3 percent, support the President's efforts to reduce court congestion by limiting the number of appeals allowed a convicted criminal and to assist law enforcement by permitting the use of evidence obtained in good faith without a search warrant.

More than two-thirds of those answering the questionnaire support President Bush's proposals to provide home and business ownership initiatives and job training for the Nation's urban poor as an alternative to current programs.

Also, an overwhelming majority, 88.7 percent, agreed with the President's proposal to limit plaintiffs' recoveries for pain and suffering and lawyers contingent fees.

A bare majority of respondents, when asked to established domestic spending priorities for the Federal Government, listed education, 56.6 percent, crime prevention, 52.8 percent, and health care, 51.4 percent, as the top three areas where the Federal Government needs to spend more money.

Similarly, my constituents overwhelmingly rejected increased Federal spending for welfare for the disadvantaged, 18.2 percent, housing, 28.35 percent, and urban renewal, 37.1 percent.

Nearly two-thirds of the residents of the 13th Congressional District indicated that they felt that congressional efforts to reduce the national budget deficit have failed and that they favored a constitutional amendment to require a balanced Federal budget.

Questionnaires were mailed in July to every household and postal box in Pennsylvania's 13th Congressional District, which includes 28 municipalities in Montgomery County and parts of three wards in the city of Philadelphia. More than 5,500 people responded to this summer's poll.

As in years past, I have provided the White House with the results of this year's questionnaire.

The following are the complete results from my 1992 annual questionnaire:

1. Budget restraints require establishing domestic spending priorities in addition to cuts in defense and foreign aid. Do we spend too much, not enough, or the right amount of your tax dollars on the following domestic programs:

Crime prevention:

| | Percent |
|---|---|
| Too much | 9.2 |
| Not enough | 52.8 |
| Right amount | 38.0 |

Drug Abuse:

| | |
|---|---|
| Too much | 21.2 |
| Not enough | 42.0 |
| Right amount | 36.8 |

Education:

| | |
|---|---|
| Too much | 13.9 |
| Not enough | 56.6 |
| Right amount | 29.5 |

Environmental protection:

| | |
|---|---|
| Too much | 14.8 |
| Not enough | 48.9 |
| Right amount | 36.3 |

Health care:

| | |
|---|---|
| Too much | 18.7 |
| Not enough | 51.4 |
| Right amount | 29.9 |

Housing:

| | |
|---|---|
| Too much | 28.35 |
| Not enough | 28.35 |
| Right amount | 43.3 |

Security for older Americans:

| | |
|---|---|
| Too much | 16.4 |
| Not enough | 40.9 |
| Right amount | 42.7 |

Transportation:

| | |
|---|---|
| Too much | 14.4 |
| Not enough | 47.3 |
| Right amount | 38.3 |

Urban renewal:

| | |
|---|---|
| Too much | 24.6 |
| Not enough | 37.1 |
| Right amount | 38.3 |

Welfare for disadvantaged:

| | |
|---|---|
| Too much | 44.9 |
| Not enough | 18.2 |
| Right amount | 36.9 |

2. Since various laws to reduce the budget deficit have failed because they can be waived by Congress, should there be a Constitutional amendment to require a balanced federal budget?

| | Percent |
|---|---|
| Yes | 71.8 |
| No | 28.2 |

3. Should Congress enact President Bush's education initiative which includes voluntary national testing of students, new, privately developed experimental schools, and vouchers to allow parents to choose among various public and private schools?

| | Percent |
|---|---|
| Yes | 46.3 |
| No | 53.7 |

4. Should Congress enact the Administration's proposals to provide home and business ownership initiatives and job training for the nation's urban poor as alternatives to current programs?

| | Percent |
|---|---|
| Yes | 76.7 |
| No | 23.3 |

5. Should Congress enact a national health care system by expanding private insurance coverage to include all individuals and businesses or should we abandon the private system and substitute the Federal government as the sole provider and payor for health care?

| | Percent |
|---|---|
| Private | 70.6 |
| Federal | 29.4 |

6. Should Congress enact the measures President Bush proposed three years ago to reduce court congestion by limiting the appeals allowed convicted criminals and to assist law enforcement by permitting the use of evidence obtained in good faith but without a search warrant?

| | Percent |
|---|---|
| Yes | 74.3 |
| No | 25.7 |

7. Should Congress enact legislation proposed by President Bush to reduce the more than $80 billion consumers pay annually as a direct result of civil lawsuits by limiting plaintiffs' recoveries for pain and suffering and lawyers contingent fees?

| | Percent |
|---|---|
| Yes | 88.7 |
| No | 11.7 |

8. Should the United States guarantee $10 billion in commercial loans to Israel to assist in resettling refugees who left the former Soviet Union?

| | Percent |
|---|---|
| Yes | 25.6 |
| No | 74.4 |

9. Should the United States admit, outside the normal immigration procedure, refugees from other countries who are fleeing for primarily economic reasons?

| | Percent |
|---|---|
| Yes | 15.2 |
| No | 84.8 |

10. Realizing that further defense savings are dependent on world peace and stability, should the United States send aid to Russia and the other former Soviet republics as requested by Russian President Boris Yeltsin?

| | Percent |
|---|---|
| Yes | 62.6 |
| No | 37.4 |

## TRIBUTE TO A TRUE PATRON OF THE COMMUNITY

### HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. ZIMMER. Mr. Speaker, in recent years, the city of Newark, NJ has been the beneficiary of one man's uncommon generosity. At the height of an enormously successful and personally profitable business career, Raymond Chambers decided that he would leave behind the world of finance to rebuild his hometown. Acting mostly behind the scenes and virtually without public recognition, Ray Chambers has donated millions of dollars of his own money and all his incomparable energies and skills to revitalizing the city he grew up in.

A front-page article in the Wall Street Journal has chronicled Ray's efforts to rebuild Newark and has described his crowning achievement to date—the creation of his student-mentor program that not only offers a child a college scholarship, but also matches the child with an accomplished adult role model as a tutor.

I urge my colleagues to read this article to learn what one dedicated and selfless man can accomplish.

[From The Wall Street Journal]

TUTORS AND MENTORS FOR KIDS

(By Ralph T. King, Jr.)

Raymond Chambers once did a leveraged buy-out of Gibson Greetings Inc., earning more than $100 million with a $1 million investment. Today he is leveraging souls in this downtrodden city, also with impressive results.

Mr. Chambers was born and raised in Newark, the son of a blue-collar warehouse manager. He went on to become one of the nation's wealthiest men as a pioneer in leveraged buy-outs with William E. Simon, the former Treasury secretary.

Meanwhile, in the years following Newark's bloody 1967 riots, the social fabric of Mr. Chambers' hometown disintegrated. It lost one-third of its population. Of the remaining 275,000 resident—85% black and Hispanic—more than one in four lived below the poverty line. It became a place where kids stole cars every night simply for sport and where drug-addicted parents sometimes abandoned newborns in hospitals for months.

Newark's educational, cultural and political institutions, with few exceptions, had decayed to a shocking degree.

So in 1986, Mr. Chambers left the business world and waded in. His solution was to enter all three areas with big projects that would generate ripple effects beyond the scope of his resources. Mr. Chambers' use of leverage—getting projects off the ground with seed money, making some programs profit-makers that can support others, financing an effort with a highly leveraged commodity fund offers a lesson in how philanthropy and shrewd business tactics can work together.

BEHIND THE SCENES

Since 1986 Mr. Chambers has worked full time to try to rebuild Newark, spending more than $50 million of his own money and committing another $36 million in the form of guarantees to donate the cash if no one else will. Yet, through it all, he has tried to avoid publicity. At the ground-breaking for a movie theater being built largely because of his efforts, he stood at the back of the crowd, in dark glasses, while civic leaders made speeches and took bows on the stage. He has declined many requests for interviews. For this article, he did provide background information and issued a brief statement for the record, but only because this reporter, at Mr. Chambers' suggestion, once spent five months assisting in a weekend tutoring program he sponsored.

"Ray stands out as the American businesses entrepreneur of the Reagan era who has made an investment of a scale and an intensity that I don't think anyone else has matched," says Peter Goldmark Jr., president of the Rockefeller Foundation. While the Fords and Rockefellers in their day may have had a broader impact on the social welfare of places like New York City and Detroit, he says, "Ray is unique because nobody is doing that now. I don't think there is anybody from this era in his league."

DOWN AND OUT

Mr. Chambers, 50 years old, studied at Rutgers University in Newark and trained as a tax accountant at Price Waterhouse before pursuing investments. But in his statement, he says: "I had never seen people as down and out as the people of Newark. It had gotten so bad, I didn't think I had any alternative."

The movie theater, while one of his smaller projects, gives a good insight into Mr. Chambers' techniques. Newark no longer had a single cinema in its neighborhoods, let alone a bowling alley or a skating rink. Mr. Chambers couldn't get any bank to make an ordinary construction loan to build a theater in the most blighted neighborhood, the Central Ward. Finally, Newark-based First Fidelity Bank came through, after Mr. Chambers' foundation agreed to put up a comparatively small sum, $800,000, and guarantee $3.9 million more.

Then he went about trying to find a theater operator to run it at cost. A. Alan

Friedberg, chairman of Loews Theatre Management Corp., a unit of Sony Corp., finally agreed. "As I thought about it, I realized I didn't want to be just another CEO interested only in profits," Mr. Friedberg told the crowd at the ceremony. Rather, profits will go the city, which in effect donated the land, and to a fund sponsoring civic and cultural activities in the vicinity.

To Mr. Chambers, that creates a kind of social leverage that's much more important than just giving money away.

Mr. Chambers' first move in Newark gave him the credibility he needed to go further. He got involved with the Boys' and Girls' Clubs of Newark. Their new director, Barbara Wright Bell, was struggling to renovate four dilapidated facilities that were overrun by youth gangs. Mr. Chambers liked her take-charge approach and grasp of inner-city problems.

He attracted an influential board and quadrupled its budget to $1.8 million with such new funding sources as an endowment with stock from one of his leveraged buyouts, Six Flags Corp., and a golf outing patronized by his business associates. Within 18 months, Ms. Bell had restored the clubs to mint condition and provided a haven for about 5,000 new members. Mr. Chambers now has about $10 million invested in the clubs.

With this success, Mr. Chambers won the respect of Newark Mayor Sharpe James, who now calls the organization the "jewel" of the city. After some discussion, the two men found they shared a vision of what needed to be done. "I deal with thousands of people who have money and want to help the city. Ray is unique," says Mayor James. "He doesn't come in and say you must do this and that, and he never looks or asks for anything in return."

Mr Chambers set to work, operating through an outfit called the Amelior Foundation, of which he is chairman. Ms. Bell, as president, oversees Amelior's projects. "A movement around one man or one organization is not healthy," says Ms. Bell, 42, who learned how to get things done in the inner city from her father, an Episcopal minister. "Newark wasn't visionless before Ray came in, but he brought the vision closer to reality, pushed it more quickly and gave it more energy."

Education was their greatest concern. Newark's school system didn't work. Despite a $496 million budget, many of its 49,000 students were learning as much in the streets as in the overcrowded classrooms. Mr. Chambers was struck by an idea he had heard about on CBS's "60 Minutes." Eugene Lang, a New York businessman, had promised college scholarships to 61 Harlem sixth-graders. In the end, about half finished at least some college.

Mr. Chambers thought he could do better by starting sooner, as early as first grade; by being bigger, eventually to include 1,000 youngsters (650 are enrolled to date, from first grade through junior high); and by doing more, such as matching all the students with a mentor.

A SPEECH BY TUTU

Amelior endowed the program, called Ready (Rigorous Educational Assistance for Deserving Youth), with $10 million, or $10,000 per student. Part of that is reserved for college costs, but most pays for tutoring, horizon-widening activities (from visiting New York City museums to attending a speech by South African Bishop Desmond Tutu) and parental assistance. Mr. Chambers has donated about another $10 million to various universities, partly to guarantee spaces for Ready students.

It's too early to tell how well the program will work; Ready was started in 1987, and its oldest participants are in the 11th grade. But it has done wonders for Deneane Jacobs. "I like when people say to me, 'You ain't nothing,'" says the 17-year-old, whose 10 sisters all dropped out of high school. She plans to attend college and law school and hopes to become a judge. "When I get up there working in my fine office one day, I hope they're still around. I'm going to take them up there and show them," she says. Having cured a stutter and increased her reading speed, Deneane has markedly improved her grades.

Mr. Chambers wanted to find more immediate incentives than a college education to reduce Ready's current dropout rate of 35% (most of these move away or never attend a single Ready session). So Amelior paid the minority-owned City National Bank $300,000 for a 20% stake, and set aside $500 worth of shares for each kid to "inherit" upon graduation from high school. That not only helps the kids, but helped the bank survive to continue to make loans in inner-city Newark.

Many Ready parents are unemployed single mothers with lots to worry about besides making sure their kids stay in Ready. Mr. Chambers had heard about a skills training program of welfare mothers that was trying to expand. Amelior donated $400,000 to move the Newark Business Training Institute into new facilities, including a day-care center. This year it will turn out 400 graduates, double the 1990 number, and find jobs for three-quarters of them. Two dozen Ready moms are enrolled in classes this fall.

UNIQUE FUND

Another project is the One-to-One Partnership. Mentors for Ready kids were hard to find, so, with Geoffrey Boisi, he founded One-to-One to coordinate existing mentoring groups and start new ones. Mr. Boisi, 45, veteran of Goldman, Sachs & Co., left Goldman to run One-to-One, inspired, he says, by Mr. Chambers's example.

The two men conceived a Wall Street commodity partnership whose trading profits will mostly go to kids who satisfy One-to-One program requirements, but also cover program costs. Charity-minded investors in the One-to-One Charitable Fund L.P. will earn a modest return at best, with the rest going to One-to-One. They won't face the typically huge risks associated with commodities because of hedging and diversification.

The fund's managers are four top performers—Paul Tudor Jones's Tudor Investment Corp., Blenheim Investment Inc., J.W. Henry & Co. and Moore Capital Management Inc.—all of which have waived their fees, which generally are 3% of funds under management plus up to 30% of trading profits.

The fund started trading two months ago with the first $20 million from investors. No results are available yet. Plans to raise $100 million by June were delayed after an article on the fund in this newspaper brought an unexpected number of inquiries, raising certain legal issues. The fund was restructured into a limited partnership, and fund-raising efforts recently resumed. Meanwhile, One-to-One has set up operations in 15 cities. Its Newark affiliate has arranged 250 matches and plans 1,500 more with five years.

Next on the agenda was the city's cultural life. Newark's downtown does have a first-class museum, but little else of interest to suburban residents or office workers after hours. A New Jersey performing-arts center had been proposed by state officials for years, but the idea languished, in part because of a $150 million price. In any case, other cities were more likely sites the Newark.

Then, in 1988, Mr. Chambers made state legislators an offer they couldn't refuse. He guaranteed that private donations would be raised to match a proposed $33 million state grant. Amelior put up the first big chunk. Mr. Chambers recruited a high-powered board including Ray Vagelos of Merck & Co. and Robert Winters of Prudential Insurance Co. of America, both big corporate donors, and called on others throughout the region. Newark's big employers joined quickly, but so did ones farther afield like American Telephone & Telegraph Co. and Matsushita Electric Corp. of America. Mayor James has agreed to try to scrape together $10 million of city money.

DOWNTOWN ANCHOR

Ground is not yet broken, but the arts center is scheduled to open in 1996. Nearly half of the immediate 12-acre site is set aside for future private development; leases are eventually expected to generate revenue for the center.

With Newark's downtown soon to have an anchor, business leaders across the state seem to be taking the city, and its problems, more seriously. Blue Cross and Blue Shield of New Jersey has just completed a new high-rise headquarters here, and will relocate 2,700 employees from the suburbs. City planners have drawn up a redevelopment scheme for the adjacent riverfront. Another ripple: The center will offer extra instruction in the arts and performance space for students in public schools. Ready kids are expected to participate.

The most recent splash is in the political arena. As Newark has decayed, squabbling over the shrinking pie has increasingly divided community groups. But a campaign called Newark Fighting Back marks a new approach. Its ostensible goal is to cut drug and alcohol abuse in the city's most depressed sections, fed by a five-year, $3 million grant from the Robert Wood Johnson Foundation. But more important is the fact that nearly 100 community leaders cooperated to get the grant.

Once again, Mr. Chambers, via the Boys' and Girls' Clubs, was a key player. Several small agencies in the city wanted to go after the grant independently. The clubs' leaders, with the mayor's help, roped them in and donated staff to put the proposal together.

SOME ARE CRITICAL

There is a nascent sense among the groups that they now have sufficient mass to map out broad, long-term solutions to such complex problems as unemployment, homelessness and crime. One who signed up, Virginia Jones, representing tenants in the high-rise building where she lives, has been criticizing city officials and anti poverty programs for years. Her beef is that the people the programs are designed to help never get consulted. Says Ms. Jones: "This Fighting Back is a start. They understand my frustration."

Some people feel the projects engineered by Mr. Chambers are misdirected. The theater ground-breaking in June was interrupted by protesters calling for long promised repairs at a rundown city housing project. Says Davis Weiner of the Newark Coalition for Low-Income Housing: "This kind of project is fine as an adjunct. The problem is that it becomes the primary focus while the more serious issue, housing, becomes secondary."

Others object that the arts center is no remedy for Newark's 13% unemployment rate or growing homelessness. Says Edward

Verner, who heads an association of 200 leaders of local black churches: "There are people sleeping in parks a stone's throw from where the center will be. If you are going to renaissance Newark, then renaissance the poor first."

And, to be sure, life remains miserable for many Newark residents. Ronald Graham, a 25-year-old unemployed native of Newark, regards the .45-caliber pistol he owns as a basic necessity. "To me, this is hell," he says, gazing at a nearly empty parking lot in a shopping center with many vacant storefronts.

But, if nothing else, Mr. Chambers's leveraged approach is giving many people in Newark hope—a sense, for the first time in years, that something can be done to break their cycle of poverty. Says Rep. Donald Payne, who represents Newark: "This community is blessed to have a Ray Chambers."

## SO LONG, BOB

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to my friend from California, BOB LAGOMARSINO, who will be leaving Congress at the end of the 102d session. Our friendship began during our service in the California Legislature and has grown during our years together in Washington. During this time, Bob has worked tirelessly on behalf of his constituents on the central coast of California. I hope that they realize what an excellent Congressman they will be losing at the end of this session.

BOB was first elected to Congress in 1974, and he has made his mark in this institution as an expert in international relations and the environment. He is a senior member of the House Foreign Affairs Committee, where he serves as the ranking member of the Subcommittee on Western Hemisphere Affairs and as a member of the Asian and Pacific Affairs Subcommittee that specializes in trade with the Pacific rim nations. He is also the chairman of the Republican Institute for International Affairs, a group of prominent national leaders that promotes democracy movements throughout the world. As chairman, he has helped establish and monitor free elections in emerging democracies, and is currently working to promote free elections in Kuwait and the Soviet Union.

BOB also serves on the House Interior Committee as the ranking member of the Subcommittee on National Parks and Public Lands. This has allowed him to protect the natural resources of California's central coast. His efforts have led to the creation of the Channel Islands National Park and the Dick Smith Wilderness in the forest back country of Santa Barbara County. He also fought a successful 5-year battle to designate over 400,000 acres of the forest as wilderness, which culminated in the passage of the Los Padres Wilderness bill. This bill protected 85 miles of rivers and streams in Santa Barbara County by incorporating them into the Wild and Scenic Rivers System.

I am not the only one who has noticed the outstanding job that BOB LAGOMARSINO has done in Congress. He has been recognized by the California and National Wildlife Federations as the Legislative Conservationist of the Year, and the California Peace Officers Association named him as their Legislator of the Year. In 1985, he was awarded the Santa Barbara Medal of the University of California at Santa Barbara for his years of public service.

Too often in Congress, partisan bickering and political posturing overshadow the working relationships and friendships that extend across the aisle. I was lucky enough to have forged such a relationship with BOB LAGOMARSINO. His hard work and dedication will be missed throughout California, and throughout the Nation. My wife Lee joins me in wishing BOB and his wife Norma all the best in the years ahead.

## SITUATION IN SOUTHEASTERN TURKEY

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. HAMILTON. Mr. Speaker, I wish to draw to the attention of my colleagues a written response from the Honorable Thomas M.T. Niles, Assistant Secretary of State for European and Canadian Affairs, regarding the security situation in southeastern Turkey and human rights abuses in Turkey. Since the mid-1980's, Turkey has been combating the activities of the PKK, a terrorist organization committed to the creation of a separate Kurdish state in southeastern Turkey. Turkish security forces have used increasingly violent methods to try to deal with the PKK threat. Innocent civilians are being killed by both sides in this conflict.

Secretary Niles' remarks were submitted to the Subcommittee on Europe and Middle East in response to questioning during a subcommittee hearing on September 29, 1992, on recent developments in Europe.

Secretary Niles' response differs notably from his earlier testimony before the subcommittee on these issues and from earlier letters from the Department of State on the human rights situation in Turkey. The response goes further than any other statement of administration policy to date in acknowledging that a serious problem exists in southeastern Turkey, not only in terms of terrorist violence, but in terms of the heavyhanded official Turkish policy for dealing with the situation in the southeast. The response also notes, for the first time, that the trend today regarding the practice of torture in Turkey is not one of improvement and may in fact be one of increased violations.

Once again, I wish to reiterate that Turkey is an important friend and ally of the United States. We have a broad agenda with the Government of Turkey. It is in our interest and in the interest of the future of the United States-Turkey relationship to ensure that serious human rights violations cease to occur in Turkey.

REMARKS BY HON. THOMAS M.T. NILES

The level of terror and political violence in Turkey is notably elevated from last year. In the southeast, the focus of the PKK insurgency, this violence has clearly increased: more than 4000 military, insurgents, and civilians have died since the insurgency began in 1984, almost half of them in 1992 alone. More than 300 civilian deaths have been reported this year—85 of them in July 1992.

Underlying this violence lies the emotionally charged issue of Kurdish-Turkish relations. The Kurdish Workers Party (PKK), which has tried to claim the mantel of Kurdish leadership in Turkey, frequently uses terror to pursue its separatist goals—extortion and murder, kidnapping and assassination, targeting innocent civilians as well as security forces. PKK attacks on teachers have closed more than 1200 schools in southeastern Turkey. It has assassinated more than 50 local officials, most recently on September 21, when it murdered two Diyarbakir officials. On September 27, the PKK gunned down a prosecutor and a judge in Diyarbakir. In August, the PKK attacked a social club in Adana, killing a pregnant woman and wounding several others. The violence has driven many Kurds to seek refuge in western Turkey, but even such refugees are victimized—a 29 year old man was murdered in Izmir on September 3, reportedly after fleeing PKK recruitment efforts.

The government of Turkey is attempting to deal with this threat to its security, while maintaining a functioning, democratically-elected parliamentary system and a free press which criticizes the government and debates alternative futures in an unfettered fashion. Within their Parliament, representatives from the Kurdish areas of southeastern Turkey have formed a political group which outspokenly advocates cultural and economic rights for Turks of Kurdish origin.

As you know, the 1991 Human Rights Report discusses inadequacies in Turkey's human rights performance, especially torture and excessive use of force by security personnel. I have previously expressed our satisfaction that laws on thought crimes have been abolished, and are no longer a basis for arrests. In addition, political prisoners have been released. On the issue of torture, it had previously been our impression that, reflecting the policy of the new government, the trend was in a favorable direction. Recent reports, however, indicate that allegations of torture have not diminished, and torture may have actually increased.

Parliament has failed to move forward with a package of judicial reforms which would address many of our concerns over human rights protection. The reform program, by limiting pre-trial detention and providing those accused access to legal counsel, could significantly improve this situation. President Ozal vetoed the bill because he believed it would hamper investigations and operations against terrorists and their sympathizers. We have been assured that the government intends to pass this law in the next two weeks.

Clearly, part of the problem of southeastern Turkey is economic. For decades that part of the country has been neglected with the result that it has been economically deprived and is far less developed than the western part of the country. The GOT has promised to address these inequities with institutional reforms and development programs for the region. Unfortunately, the upsurge in violence over the past year has reached the point where these reforms have been set aside.

The Turks are also addressing the PKK problem directly, by using their security forces to root out PKK strongholds. There is

no question that the Turkish government is uncompromising on the issue of separatism, as is every other country in the region. We strongly support Turkey's territorial integrity, and that of Iraq. The Government of Turkey has consistently said that its Kurdish population is free to express itself politically within the established parliamentary system. We support the many efforts of Turkish Kurds to work through the Parliament and other legitimate institutions; it is vital that those institutions be sufficiently flexible to allow the full expression of concerns of all Turkish citizens.

We must not forget that there are Kurds willing to oppose the PKK and its methods. The Kurdish leaders of northern Iraq have met with Turkish officials about the problem of PKK bases in Iraq, and have said they will no longer tolerate PKK activities from Kurdish-controlled areas. We are in touch with these leaders, who are committed to a united Iraq. Within the context of maintaining Iraq's territorial unity, we, the Turks, and other allies continue to work to maintain freedom from repression for all the people of northern Iraq. Turkish cooperation remains a vital ingredient for the astonishing humanitarian success of Operation Provide Comfort. We will continue to work with both Turks and Iraqi citizens in the difficult days that lie ahead in order to build a stable peace, within established borders for all the citizens of that troubled region. In an area where we have important interests—in the Middle East, the Balkans, the Caucasus and Central Asia—Turkey is emerging as a regional power. We seek to cooperate with Turkey in these areas.

It is also clear that third-world countries are supporting PKK activities. We are working with Turkey in its efforts to end the support this group gets from other states.

At the same time, and in the spirit of our long friendship with Turkey, we remain uncompromising in our defense of the human rights of all Turkish citizens. We are particularly concerned by the frequency of reports of extrajudicial killings and torture. We will expand our dialogue with the Turkish government on the subject of human rights. Believing that the rule of law and the fight against terrorism must be pursued simultaneously, we have urged the Turks to pass and implement urgently needed reforms which would protect the human rights of all Turkish citizens. Turkey's battle against the PKK is one in which we are not directly involved, but in which we clearly have a stake. We will cooperate with the Turks in reminding third-world countries that it is unacceptable that they harbor terrorist camps from which attacks are mounted on a friend.

In summary, the deep-rooted economic, political and security problems of southeastern Turkey must be addressed in reinforcing fashion. We support Turkey's democratic parliamentary system. We applaud its willingness to allow these problems to be discussed openly in a free press. As always, we deeply regret the loss of life, often innocent, as a result of the cycle of terror and violence.

## CAPTIVE NATIONS WEEK

### HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. SOLOMON. Mr. Speaker, twice during this session of the 102d Congress I have risen to commemorate Captive Nations Week and to recognize those Governors and Mayors who have issued proclamations on behalf of their constituencies in honor of this important occasion.

As a finale for this year's commemoration of the event, I think it fitting and proper that this recognition include the Captive Nations Week proclamation issued by President Bush as well as his speech on America's unwavering devotion to the letter and the spirit of human rights agreements and democratic principles of Government.

Further, these sincere actions by President Bush demonstrate his personal commitment to the principles of liberty, freedom, and democracy which form the basis of our Nation and its way of Government. At a time when American citizens are contemplating their choices for the next President of our country, it is extremely important for them to remember who it is that has not only espoused these convictions but who it is that has actually acted upon them. Any examination of the record of George Bush as President of the United States clearly reflects his personal devotion and his successful endeavors in this important area. For these purposes, I have entered a copy of the President's proclamation and the President's speech into the RECORD.

A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

CAPTIVE NATIONS WEEK, 1992

When Americans first observed Captive Nations Week in 1959, repressive communist regimes had overtaken nations from Central and Eastern Europe to mainland China and overshadowed many others with the very real threat of expansionism. Three years earlier, forces of the Soviet Union had brutally suppressed a popular movement for freedom in Hungary; some 16 years before that, the Soviets had invaded Poland and achieved the forcible annexation of Lithuania, Latvia, and Estonia. In 1959, the United Nations had only recently ended its efforts to thwart communist expansionism below the 38th parallel in Korea, and a communist-led insurgency had already begun to threaten South Vietnam. At a time when millions of people were enslaved by Soviet domination or subjugated by proxy, at a time when countless others were terrorized by the threat of communist aggression and subversion. Americans paused during Captive Nations Week to reaffirm our commitment to liberty and self-government and to express our solidarity with all those peoples seeking freedom, independence and security.

Today, 33 years after our first observance of Captive Nations Week, millions of people who suffered under Soviet domination and communist rule are free. The Iron Curtain and its most despised symbol, the Berlin Wall, have fallen—toppled by courageous states, Central European countries, and 12 new states that replaced the U.S.S.R. In Afghanistan and Angola, where bloody civil war against Soviet-supported, Marxist-Leninist regimes left thousands dead and millions of others homeless, chances of achieving lasting peace have reached their highest level in years.

As we celebrate the hope of peace and freedom in these and other once-captive nations, we also remember the many courageous, freedom-loving men and women who resisted tyranny and oppression—often at great personal cost. These include the thousands of dissenters who risked imprisonment, exile, and death in order to demand rights that we American enjoy: freedom of religion, speech, and assembly, as well as the right to a fair trial and to protection against unreasonable searches and seizures. They include prisoners of the gulag who remained devoted to liberty despite suffering hunger, torture, and long periods of solitary confinement; and they include selfless religious leaders such as Father Jerry Popieluszko of Poland, Cardinal Josef Mindszenty of Hungary, and Cardinal Josyf Slipyj of Ukraine, who inspired countless others by their unshakable belief in the God-given rights and dignity of the human person. From broadcasters at the Voice of America and Radio Free Europe/Radio Liberty, who pierced the Iron Curtain with words of hope and truth, to freedom fighters in Nicaragua and other Latin American countries who led popular resistance to local despots and to political and military interference from Cuba and the Soviet Union—the men and women whom we remember this week never lost their faith in freedom and in the inevitable triumph of liberty and justice.

As we recall all those who labored and sacrificed to hasten the demise of imperial communism and to liberate the world's captive nations, we must remember those peoples who remain subject to regimes that continue to deny basic human rights in stark violation of both the letter and the spirit of international human rights agreements, as well as fundamental standards of morality. The United States will continue to speak out against egregious human rights violation in Cuba and elsewhere, and we shall continue to warn the world's newly emerging democracies against another kind of subjugation: the tyranny of ethnic hatred and nationalist rivalries. History has shown how these evils can produce their own form of captivity: a vicious cycle of violence, political repression, and economic stagnation and loss. As this observance of Captive Nations Week reminds us, freedom and peace are precious blessings that require the faith, the will, and the wherewithal to preserve and strengthen them.

The Congress, by Joint Resolution approved July 17, 1959 (73 Stat. 212), has authorized and requested the president to issue a proclamation designating the third week in July of each year as "Captive Nations Week."

Now, therefore, I, George Bush, President of the United States of America, do hereby proclaim the week beginning July 12, 1992, as Captive Nations Week. I call on all Americans to observe this week with appropriate ceremonies and activities in celebration of the growth of liberty and democracy around the world and in recognition of the need for continued vigilance and resolve in the defense of human rights.

In Witness Whereof, I have hereunto set my hand this fifteenth day of July, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.

REMARKS BY THE PRESIDENT TO RELIGIOUS AND ETHNIC GROUPS AT THE THREE SAINTS RUSSIAN ORTHODOX CHURCH IN GARFIELD, NEW JERSEY

May I thank you, Governor Kean, for that warm welcome back. May I salute our Assemblyman, Chuck Haytaian; our Senate President Don DiFrancesco; and House candidate, Pat Roma. I'm delighted to see you all. And may I ask that we pay our respects to His Beatitude, Metropolitan Theodossius, the Archbishop of Washington, the Primate of the Church; and Archbishop Peter, Bishop

Paul, Father Alex; and members of the Three Saints Parish. Thank you for welcoming me and so many thousands of your neighbors in New Jersey. And good afternoon to Congresswoman Marge Roukema that's out there somewhere, and the wonderful people in this audience that represent the rich diversity of New Jersey.

Your heritage is Cuban and Vietnamese and Jewish and Christian and Irish and African and Polish and Chinese and Armenian—and so many, many others. And you're Americans all. You are Americans. And your spirit enriches our country and it fuels the flame of freedom all over the world.

And these gleaming church domes remind me of the skyline of a great city. Since my last trip to Moscow, the Russian people have toppled the idols of Soviet communism. They have begun renewing the Russian nation. And just consider the signs of the times: In Red Square this Easter, the gigantic picture of Lenin was gone, and in its place was a massive icon of the Risen Lord. A powerful symbol of the new birth of freedom for believers all around the world.

Today Germany is free and united. Ukraine—Ukraine is free and democratic. Poland is free. And the roll call of freedom includes Hungary and Armenia, the Czech and Slovak Republic, Bulgaria, Belarus, Lithuania, Estonia, Latvia and many, many more. And at long last, the captive nations of the old Soviet empire are free.

But our work is not finished. In Asia, in Latin America, in other regions, some nations still suffer oppression. And some people are still struggling to be free. And that's why, one of the reasons, I want your support to serve four more years as president, to complete the job of freedom around the world. We've got to use our energy. We've got to use our experience to solidify the historic changes that have given birth to these new democracies abroad and made us secure at home.

These events benefit every American. The free world's triumph in the Cold War—brought about by the steadfast efforts of America, the American people, of her allies—gives us a chance to establish for these kids here a lasting peace. And the momentous arms agreement that I reached last month with President Yeltsin, this reduction—with its sweeping cuts in nuclear weapons will make us more secure than at any time since the dawn of the nuclear age. And these kids can go to asleep without worrying about nuclear war because of the changes we have brought to this country.

Little more than two years ago, I welcomed to the White House Poland's then—the first noncommunist prime minister since Stalin's conquest of Eastern Europe. This brave man, Tadeusz Mazowiecki, spoke some of the clearest and wisest words about the times we live in. He said, "History is accelerating." And with those words he foretold the fall of the Soviet empire. And this wave of history, this surge of hope, is not confined to Europe. The Afghan people have won back their homeland. In Angola, and in other African countries, People are digging out from under the rubble of tyranny.

And mark my words: During my second term as President, the probability is high—it is very high—that greater freedom will come to more than a billion people in Vietnam, in North Korea, and in China.

And closer to home, we also have more victories for freedom. The Castro dictatorship is on its last legs. And here's what I envision: Within the next four years, I will be the first President of the United States to set foot on the soil of a free and democratic Cuba. And that's good for all of us. I am determined to keep America the leader in the struggle for world freedom. And I am every bit as determined to protect the sources of our strength right here at home in the good old U.S.A. And during the next four years, I'll keep helping American workers and entrepreneurs carry us to new heights of achievement. And I will fight for the rights of American parents and American families. We must restore respect for the American family.

The family is under siege. And the choices in this election are clear: On one side, the advocates of the liberal agenda; on the other side are you and I and those values of family that we share.

They want to tighten the monopoly on our kids' education. And I am fighting on your side, as Tom said, for parents' rights to choose their childrens' school—public, private or religious. And our G.I. Bill for children gives middle and low-income families more of the same choices of all schools that people with a lot of money already have. And two years ago, they tried to create a new bureaucracy—this one for child care. And I won my fight to let parents choose their children's care, including church-based care. And I will keep on fighting for that kind of choice for the American family.

They want public schools to hand out birth control pills and devices to teenaged kids. And they believe it's no business of the parents and that it's strictly a matter between our children and the government. They even encourage kids to hire lawyers and haul their parents into court. And I believe kids need mothers and fathers, not big brother bureaucracy. And the bond between the parent and the child is sacred and it is fundamental.

The big government liberal approach to welfare has failed. And that's why, just yesterday, I enthusiastically approved New Jersey's request to try a new approach to make parents in the welfare system more responsible, to put parents back to work. And I'm ready to fight four more years to protect the traditional rights of parents and families.

Families are central to any civilization. And more than a century ago, Dostoyevsky imagined a nightmare world, a place where an all powerful state crushed the natural rights of individuals and families. "And if God is dead," he wrote, "then everything is permitted."

Well, looking out over this magnificent audience I can feel it. I know that your faith is alive and family is the most important thing we have here on this Earth. And we take to heart the words of America the Beautiful, "confirm thy soul in self control." And we know that the America we love, the America that's such a powerful beacon to the entire world will not stay strong if the culture and the government teach our kids that anything goes.

Think about it. If we can tear down the Berlin Wall, we can build a strong economy. And if we can lift that Iron Curtain, we can bring the curtain down on immorality and indifference and lawlessness. And if we can help people walk free through the streets of Europe, there's no reason we cannot take back our streets right here in our neighborhoods in the United States of America.

You know, being here reminds me that next month marks the first anniversary of that attempted coup in Moscow; of those fateful days in August when Russia's democratic future was laid on the line, when world peace hung in the balance. And I'm sure each one of us has indelible memories of those days. I certainly do. And I am proud that we had the courage and the leadership to stand by Russia's democrats in their hour of need. And I am grateful for what Boris Yeltsin said about American leadership and making it possible for democracy to come to Russia.

You know, earlier this year, I had the privilege of hearing Slava Rostopovich recount his memories at the National Prayer Breakfast in Washington. He'd flown to Moscow at the first news of the coup and he stood three days and nights with President Yeltsin and the defenders of freedom and democracy, protecting what the Russians call their White House.

And he told us that deep in the night the only sound was from the movement of the tank treads. And he said: "The aura of faith was almost palpable. And that moment the salvation of us all and of the future of the country came only from God."

My fellow Americans, we have the good fortune not to live in the shadow of machine guns and tanks. And America will be safe so long as the United States of America stays strong; so long as we continue to lead around the world.

And let me repeat it: Barbara and I count it a great blessing that when our kids and our grandchildren go to bed at night they don't have the fear, that same kind of fear, that fear of nuclear threat that we faced until just a few months ago. This is momentous. This is important to the entire world. And I am proud that our leadership brought it about.

Of course, we've got hard work ahead. We've got to keep our national security second to none. We've got to prove the pessimists wrong about America's ability to compete and to create jobs and to expand America, to expand opportunity for all. And we must protect and renew our most precious resource—America's families.

Now, to meet these challenges, to lead the nation, to fight on your side of the values we share—put party politics aside—but to fight on your share for these values—on your side—that's why I'm asking you to help me win another four years as President of the United States of America. I will not let you down. I will fight for the faith. I will fight for the American families. We are one nation under God, and never forget it. We can overcome any problems we face.

And thank you. And may God bless this great country, the freest, the fairest, the greatest country on the face of the Earth. Thank you all.

## FREEDOM SUPPORT ACT SEEKS TO ENSURE TERRITORIAL INTEGRITY OF THE BALTIC NATIONS

### HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. BEREUTER. Mr. Speaker, as a member of the conference committee that recently completed work on the assistance package to the former Soviet republics, this Member would like to take a moment to address the very important issue of the continuing presence of Russian troops in Latvia, Lithuania, and Estonia.

As you know, Mr. Speaker, the United States has always supported the right of self-

determination for the people of the Baltic States. Their seizure by the Soviet Union some 50 years ago was clearly illegal, and successive administrations refused to recognize Moscow's claims. When the Baltic States began to break away from their oppressors, America steadfastly continued our support for their freedom. In the months since they have gained their independence, the United States has established embassies in Riga, Vilnius, and Tallin. We have begun an active assistance program, and we have begun to send specially trained Peace Corps volunteers. The United States is, and will forever remain, committed to the independence of the Baltic nations and basic human freedoms for their citizens.

Yet, despite Moscow's recognition of the independent status of the Baltic States, troops of the former Red Army remain in each of the three Baltic nations. These troops are no longer welcome, and each of the Baltic nations has rightfully demanded that the troops leave. The Russians, on the other hand, have delayed and, for a long while, have been unwilling to discuss the issue. Moscow complains that it has no housing for these returning forces, and that bringing them back in a precipitous fashion could create social upheaval that would threaten the democratic reforms.

Mr. Speaker, I understand Moscow's argument. Certainly the United States does not wish to destabilize the Yeltsin regime. That would not be in the U.S. interest, nor would it be in the interests of the Baltic States. Nonetheless, these troops must leave. And they must leave as soon as possible.

Fortunately, significant progress has been made in recent weeks concerning the status of the troops. In a major breakthrough, Lithuania and Russia have agreed on a timetable that will have the troops out by August of next year. Progress also has been made in negotiations with Estonia and Latvia. In addition, many of the troops have quietly been withdrawn as Red Army draftees finish up their term of service and they have simply not been replaced.

While these trends are encouraging, Mr. Speaker, the conference committee for the Freedom Support Act wished to make it unequivocally clear that Moscow must continue to make progress on the withdrawal of its remaining troops. Indeed, failure to continue to make significant progress on the withdrawal of troops will result in a termination of U.S. assistance.

The legislative language is quite clear—The President shall not provide assistance * * * for the Government of Russia if it has failed to make significant progress on the removal of Russian or Commonwealth of Independent States troops from Estonia, Latvia, and Lithuania or if it has failed to undertake good faith efforts, such as negotiations, to end other military practices that violate the sovereignty of the Baltic states.

Thus, this Member would wish to reassure the many Members of this body who are equally concerned about the freedom of the Baltics. The language in the Freedom Support Act is clear, and it is unequivocal. The United States will not condone the continued presence of unwelcome troops in Latvia, Lithuania, and Estonia.

I thank the Speaker for permitting this Member to report upon this matter.

## EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1992

### HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. STENHOLM. Mr. Speaker, I rise today to introduce a bill to amend the Egg Research and Consumer Information Act, a statute that authorizes research, food safety, and consumer education programs regarding eggs and egg products which are funded solely by the egg industry itself. The Egg Research and Consumer Information Act is one of the oldest research and promotion programs in the United States. Established in 1974, the American Egg Board [AEB] and its programs have served as a model for subsequent promotion boards and their programs.

Mr. Speaker, I have been a long-time supporter of the Egg Research and Promotion Program and other similar commodity programs because they represent an excellent example of producers of agricultural commodities helping themselves. Rather than seeking assistance from the Federal Government, producers collectively assess themselves to help maintain and expand the market for their products, educate and inform consumers, conduct vital research, and promote food safety within the food service industry. They enable hundreds of small producers of agricultural commodities to accomplish cooperatively that which they would never be able to do individually. These programs are vital for market stability and future growth as they provide agricultural producers with the opportunity to compete more effectively with major food companies for the American food dollar.

This year alone, the AEB has allocated over $1 million for research at respected universities across the country. In addition to research activity, AEB has implemented numerous education programs to teach safe egg handling procedures to food service operators in hospitals, nursing homes, schools, and other institutions in order to help reduce the risk of illness from food contamination. Consumers also receive positive and truthful information about eggs and egg products through the distribution of thousands of leaflets and media publicity campaigns.

However, with static checkoff rates, the AEB has found it increasingly difficult to maintain the kind of programming levels necessary to meet the ongoing and growing challenges faced by the industry. Given heightened public concerns about food safety and continued debate about the relationship between dietary cholesterol intake and its effect on blood cholesterol levels, additional research and education dollars are needed in order for the egg industry to remain competitive for the food dollar and to ensure adequate and accurate research.

To this end, the bill I introduce today will achieve two primary goals. First, it would grant further protection to smaller producers by increasing the exemption level from producers with 30,000 laying hens to those with 50,000 laying hens—such producers are exempt from AEB assessments and other requirements. Second, it would provide egg producers with the ability to vote for an increased assessment, not to exceed 30 cents per commercial case, for the American Egg Board programs. As under current law, any increase would have to be approved in referendum by two-thirds of egg producers voting, or a majority of producers if that majority is responsible for at least two-thirds of the egg production of voting producers.

Mr. Speaker, I urge my fellow Members to join in support of this proposed legislation, and urge its passage in the House.

## SUPPORT OF H.R. 2042

### HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mrs. BYRON. Mr. Speaker, I rise today in strong support of H.R. 2042 which reauthorizes the programs of the U.S. Fire Administration and the National Fire Academy. I am especially pleased that this legislation includes the language of H.R. 3808, legislation I introduced in the House, to establish a National Fallen Firefighters Foundations Act.

The foundation established by this bill will enable us to honor the career and volunteer firefighters who have sacrificed their lives for the protection of their communities and Nation. It would serve as a charitable, non-profit corporation, existing solely on donations made by individuals and organizations wishing to honor career and volunteer firefighters who have died in the line of duty and to assist their families. The primary purpose of the foundation is to maintain and preserve the National Fallen Firefighters Memorial, in Emmitsburg, MD, and finance the memorial's annual ceremony. If successful, the foundation could provide support to the local efforts made throughout the country to commemorate these courageous men and women, and aid the firefighters' families wishing to attend the memorial service in honor of their loved ones.

At present, all costs incurred by the memorial, its annual ceremony, and the other efforts of recognition for the fallen firefighter, have been funded through FEMA. This foundation, in removing the burden from the taxpayer, will "encourage, accept, and administer" charitable contributions made in memory of these fallen heroes.

I am delighted that this foundation has been strongly endorsed by the fire community, including the Maryland State Firemen's Association, the National Fire Protection Association, and the International Association of Fire Fighters. The memorial is growing at a rapid rate, and so too is the need for its increased support. We must help commemorate these fallen heroes and assist those they have left behind. I ask you my colleagues to join me in support of this legislation.

## JOSEPH M. PIZZA CIVIC ASSOCIATION 2D ANNUAL DINNER-DANCE: HONORING JOE COLUCCI—RESTAURATEUR

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. ROE. Mr. Speaker, on Sunday, October 25, 1992, the Joseph M. Pizza Civic Association will hold its 2d annual dinner-dance honoring Joe Colucci at LaNeve's Restaurant in Haledon, NJ.

Mr. Speaker, this gala affair will honor Mr. Joseph Colucci, founding partner of Colucci Ristorante in Haledon, New Jersey. This highly successful establishment is well known for its culinary skills. He has been selected to be honored for his distinguished career of outstanding leadership and community contribution to the greater Haledon, Passaic County area.

Born in Paterson, he is the son of John and Viola Colucci of Albero Belio Bari, Italy. Joe is married to the former Lorraine DiGiulio and they have been blessed with two lovely daughters, Lorelei and Monica.

Joe attended local schools in Paterson and Little Falls as well as Farleigh Dickinson University. He also served his country in the NJ National Guard's 114th Artillery, D Battery, in Franklin Lakes and the 104th Engineers Battalion in Teaneck.

As a preteen, Joe started to work in a restaurant with his dad and immediately knew he had found his niche. His interest and quality cooking skills have stayed with him ever since. In 1973, he purchased Colucci's Ristorante in Haledon with his father and brother. He is partners with Carl Massanova in this fine establishment.

Joe has taken an active part in civic affairs, having been elected councilman in Haledon from 1979–84. He was police commissioner in 1979, public works chairman in 1981, water department chairman in 1983, and transportation chair in 1984.

To all people, strangers and friends alike, Joe is a warm, friendly, and modest person who continues to carry out many missions of a good samaritan. His hands are never too busy to find time to help those in need.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of Joseph Colucci, who has contributed so much to the quality of life of his fellow citizens. It gives me great pleasure in joining you to honor this great American.

## SMALL BUSINESS: A GLOBAL PERSPECTIVE

### HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. IRELAND. Mr. Speaker, as the end of the 102d Congress approaches and I prepare to leave this body, I want to take one last opportunity to address an issue I have felt committed to since I entered the U.S. House of Representatives 16 years ago. That cause, Mr. Speaker, is the survival, growth, and prosperity of this Nation's small business community.

Over the years, I have been stressing to legislators the importance of small business to our economic health and reminding my colleagues to consider the legislation they pass in light of the impact it will have on these vital enterprises. Mr. Speaker, not only are small businesses at the heart of the American economy, they are emerging worldwide as the life blood of free market economies, young and old.

I urge my colleagues to read the following press release I received recently from a delegation of members of the European Parliament, European small business representatives, and the U.K. Minister for Small Business who met in London. Their concern for the future of small business as the European Community unites demonstrates the largeness of this issue. They recognize that the promotion and protection of small businesses needs to be a governmental priority and articulate a message I have been attempting to convey throughout my eight terms.

LONDON.—September 9, 1992

Small business is one of the largest economic factors and is vital for the well-being of the European economy. At the same time small business endures special burdens due both to the specificities of running a firm of such a size and the environment that is increasingly oriented towards the interests of big firms. Therefore special attention has to be given to small and medium sized businesses and crafts by administrations and governments. This should also include the European level, i.e. the European Parliament, the Council of Ministers and especially the Commission of the EC.

This is the conclusion reached at a meeting in London between Baroness Denton, UK Minister for Small Business and a delegation led by Mrs. Karla Peijs, President of the SME-Intergroup of the EP, that was composed of Members of the European Parliament and official delegates of small and medium businesses and crafts.

Small business is particularly worried about rumours and indications that the EC-Commission's directorate general in charge of small business (DG XXIII) may be dismantled by the end of the year.

This would give an unfair advantage to large firms. These have a strong lobbying power and are given fairly open access to the European institutions.

This enables them to seek for 'positive' discrimination tailored to their specific needs. As a consequence the adopted measures fall disproportionately on small business. This is not only the case when it comes to granting specific advantages like subventions, laxest merger control or protectionism, which are often done in the context of an ill-defined industrial policy, but also when it comes to the drawing-up of new legislation.

Large parts of European legislation is now being re-drawn in the wake of the Single Market and of Maastricht. There is ample evidence that this is being done mainly with big business in mind.

It is therefore necessary to have a substantial sub-unit within the Commission of the EC (that can be supplemented by the SME-Intergroup of the EP) which is given both the ability to identify the needs of small business and the power to defend these interest—on all relevant fields—to ensure that the other parts of the Commission recognize the need for caution when drawing up laws. The small business community strongly believes that this could be achieved through an enhanced DG XXIII.

In the past the European Parliament pleaded for an independent body at the Commission. This led to the creation of the SME Task Force and later to DG XXIII. Now the European Parliament continues to stand to its position and is therefore favourable to keep DG XXIII.

## THE 80TH ANNIVERSARY OF SUN-MAID GROWERS OF CALIFORNIA

### HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. LEHMAN of California. Mr. Speaker, it is with great pleasure that I rise today to bring to your attention the 80th anniversary of Sun-Maid Growers of California, one of California's and America's finest and most successful agricultural, farmer-owned cooperatives. Started as the California Associated Raisin Co. in 1912, Sun-Maid has grown and prospered to currently represent 1,500 raisin growers in the San Joaquin Valley. Net sales for the 1991–92 year exceeded $181 million.

Sun-Maid Growers' processing facility located in Kingsburg, CA, employs 600 local residents who consistently meet the growing demands and needs of both domestic and international markets. Sun-Maid's Kingsburg raisin processing plant is the largest and most modern facility of its kind in the world with nearly 15 acres under its roof. During peak periods, the Kingsburg plant processes and packages 1,000 tons or 90,000 cases of raisins.

Although the Sun-Maid cooperative and its members have had to persevere and overcome their share of hard times, the future indeed looks bright for another 80 years of success for Sun-Maid, as more and more consumers become aware of the health benefits of raisins and as new market opportunities develop worldwide. Currently, Sun-Maid exports its products to 25 nations abroad and is researching new international markets to target.

I salute the dedicated members of Sun-Maid Growers for their hard work and dedication on behalf of this successful cooperative. It is agricultural cooperatives such as Sun-Maid Growers that deserve our recognition and respect for their years of commitment to producing a quality American product.

## PETER CAESAR ALBERTI: FIRST ITALIAN-AMERICAN

### HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mrs. LOWEY of New York. Mr. Speaker, Italian-Americans proudly celebrate their heritage on Columbus Day each year. In this, the 500th anniversary year of Columbus's first voyage to the New World, I rise to pay tribute

to the contributions of Italian-Americans and to honor Peter Caesar Alberti, the first Italian to settle in America, 357 years ago.

Mr. Alberti was a successful Venetian trader who joined the Dutch West India Co. He sailed to New York, then called New Amsterdam, and settled in the colony in 1635, becoming the first of many brave Italians to leave the old world behind for a new life in America. After several years in New York, Mr. Alberti married Judith Jans Manji, the daughter of a Dutch landowner, and was granted land to begin a successful tobacco plantation in what is now Brooklyn. Today, there are over 300 of Mr. Alberti's descendents living throughout the United States, including Dianne Keys Smith Booker of Bronxville.

During the many years since Mr. Alberti arrived in America, 5 million Italians have followed, and 20 million of their descendents now live in the United States. Over the years, Italian-Americans have made important contributions in all aspects of American life. At the same time, they have cherished and maintained a beautiful and vibrant heritage which is such an important part of American culture today.

As we celebrate the 500th anniversary of Christopher Columbus' first voyage to the New World, I know that my colleagues will join me in honoring one of the first of his countrymen to settle in America and the many Italian-Americans who have made such important contributions since.

## TRIBUTE TO TONY DINOLFO

### HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. LIPINSKI. Mr. Speaker, I am pleased to rise to recognize Tony Dinolfo of Oak Lawn, IL. Tony will become an Eagle Scout at a ceremony on October 5, 1992.

It is important to note that less than 2 percent of all young men in America attain the rank of Eagle Scout. This high honor can only be earned by those scouts demonstrating extraordinary leadership abilities. Tony Dinolfo has clearly demonstrated such abilities through his dedicated community service, and he deserves special recognition.

In light of the commendable leadership and courageous activities performed by this fine young man, I ask my colleagues to join me in honoring Tony Dinolfo for attaining the highest honor in Scouting—the Rank of Eagle. Let us wish him the very best in all of his endeavors.

## IN RECOGNITION OF FRESNO CIVIC LEADER LEWIS EATON

### HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. LEHMAN of California. Mr. Speaker, I rise before by colleagues today to pay tribute to one of my district's leading citizens and most effective community forces, Lewis Swift Eaton, who passed away 1 week ago.

Lew Eaton was a great man who never acted like a big shot and he was never enamored with the trappings of wealth and power. He was a person who made things happen and he believed strongly that private prosperity and public service can work hand in hand.

Lew had a lifelong love of Fresno's nearby Sierra Nevada. That love came from his many hiking and camping trips to the back country of our parks and national forests. It was just a year ago that Lew and a group of Fresno friends hiked to the summit of Mount Whitney, the highest peak in the 48 contiguous States. Until this spring, he was still skiing, a sport that he had participated in for more than 40 years.

He would often travel to Washington on business and I remember that we would spend most of our time at dinner together comparing notes and discussing our mountain experiences.

I'll remember Lew Eaton most for his love of the Sierra Nevada mountains; his sense of responsibility for preserving our parks and wilderness areas; and for his generous commitment to causes that will benefit future generations.

His contributions to our area were many. He was the son of a pioneer Fresno banking family and built a financial empire. But, as an editorial in our local newspaper pointed out, Lew was an old-style community leader.

Lew Eaton worked quietly and without fanfare, not caring about who got the credit for what was accomplished, whether it was the Fresno Metropolitan Museum, Bulldog Stadium, Chaffee Zoological Gardens, or the work for which he was most proud, Woodward Park.

Over the years Lew Eaton has honored repeatedly for his philanthropy. He was the first recipient of the Leon Peters Award from the Fresno County and city chamber of commerce; and later the Alliance for the Arts Horizon Award for his efforts on behalf of the Fresno Arts Museum and the Metropolitan Museum.

His accomplishments in business were numerous. They included serving as president of Guarantee Savings, which was started by his father in 1919, and later as a director for Glendale Federal Bank which bought Guarantee in 1987.

He also served on various other boards of directors including Grundfos Pumps, Pacific Gas & Electric, MGIC Investment Corp., the Business Advisory Council at Fresno State University, the board of Yosemite National Institutes and the board of public television station KVPT.

Lew Eaton also was president of the Alumni Association of Stanford, from which he graduated in 1941, and over the years served as the university's San Joaquin Valley host.

He was the national president of the U.S. Savings and Loan League and was a member of the first regional advisory commission of the National Park Service. In the 1970's and 1980's, Lew Eaton served as chairman of the National Park Service Citizen's Advisory Board.

In recent years the San Joaquin River Parkway was the cause that was dearest to Lew's heart.

Born in 1919, Lew Eaton's family roots are in turn-of-the-century California.

He attended Fresno schools before entering Stanford. He joined the Army as a private in the infantry and he later went to officer candidate school. During World War II, Lew was a captain in the Army administration department and a transportation officer at Washington and Lee University.

At the end of the war, he returned to work for his father's savings and loan business and began his long commitment to both public and private community service.

The Eaton family always has had a strong commitment to the public schools. His father, Edwin Eaton, served as a Fresno school trustee for two terms in the 1940's, and Eaton School in Fresno was named for him. When Fresno School Board Member Arthur L. Selland was elected mayor in 1958, Lewis Eaton was asked to complete the unexpired term. He won a full term in 1961 and served until 1965.

He once told a newspaper reporter that working in the community gave him tremendous pleasure. "Hopefully, the things that I have contributed to will be long-lasting and beneficial to future generations," he said.

His contributions will be long-lasting and beneficial.

## TRIBUTE TO THE SHREWSBURY, MA, PUBLIC LIBRARY

### HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. EARLY. Mr. Speaker, I rise today to mark the occasion of the 200th anniversary of library services in Shrewsbury, MA. As Shrewsbury's Representative in the Congress, I am proud of the distinguished history of the library and of the valuable contributions to the advancement of knowledge which have been made through the provision of library services in this community.

The Shrewsbury Social Library, founded in 1792 by the town fathers, was a voluntary association of individuals whose purpose was the buying of books to be jointly owned by all those who belonged. In 1872, the town of Shrewsbury established and funded its first public library. Miss A.E. Eaton served as the first librarian at a salary of $50.00 per year. In 1880, the town was spending 11 cents per person for the library.

As space requirements expanded, the town purchased the Thomas Bond house in 1895. In 1902, citizens of Shrewsbury voted to build a new library, to which an annex was added in 1924. By 1946, a program was begun which encouraged town residents to donate books to the library in memory of friends or relatives who had died. The library's first bookmobile was donated in 1959 by Mr. and Mrs. Anthony Borgatti, Jr.

By 1966, circulation topped 100,000 for the first time. In December 1979, ground was taken for the $1.6 million addition/renovation at the library, a project totally funded by municipal appropriation. This new facility was dedicated in February 1981. Functioning as a superior center of learning for the town, the Shrewsbury Public Library reached a circulation high of 211,200 in 1989.

On October 4, 1992, the Shrewsbury Public Library will celebrate 200 years of libraries and books in Shrewsbury. It is my privilege to salute the board of trustees, the dedicated staff, and all of the citizens of Shrewsbury on this wonderful occasion. I look forward to the success and expansion of the Shrewsbury Library for many years to come.

## 68TH ANNUAL OCTOBER OBSERVANCE OF CO-OP MONTH

### HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. GREEN of New York. Mr. Speaker, I rise today to pay tribute to cooperative businesses across the Nation on the 68th annual October observance of Co-op Month.

Cooperative businesses have been meeting people's needs in America since 1752 when Benjamin Franklin formed the Philadelphia Contributorship for Insurance of Homes from loss of fire. That insurance company continues to operate today, and along with it are 47,000 other business cooperatives which serve the needs of almost 120 million people. Nearly half the U.S. population benefits from co-op-provided goods and services, including electric and phone service, housing, insurance, food, health and day care, farm marketing and supply, credit unions, and news services.

Needs may have changed since Franklin's time, but the self-help traditions of co-ops haven't. Cooperatives are formed by people—often neighbors—with like needs who join together to solve a social or economic need of the group.

Co-ops are businesses. They range in size from Fortune 500 companies to small day care facilities. They pay taxes, adhere to State, local and Federal laws, and follow sound business practices. But what makes co-ops different from other businesses? The answer is that they are created and belong to, and are controlled by the people who use them. They are created to provide a service to, rather than a profit for their members. A good example is a cooperative food buying club. Its members join together to purchase food collectively and efficiently.

Cooperatives are self-help mechanisms that offer great opportunities to Americans and peoples of all nations to improve many different aspects of their lives. Currently, this self-help model is helping central and eastern Europeans make the transition from a controlled economy to a free market. Benefits from this model are global, and provide trading partners and new markets for American businesses. Round the world, co-ops are helping to nourish, house, educate, and provide a sustainable economic foundation for millions of people.

This incredible network of strength is the product of people helping themselves and their neighbors to control their own destiny, and I hope you will join me this month in paying tribute to people meeting people's needs, through cooperative businesses.

## LUIGI POMPILII CELEBRATES 100th BIRTHDAY

### HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. WELDON. Mr. Speaker, I rise today to honor Luigi Pompilii who will be celebrating his 100th birthday on October 11, 1992. Luigi was born on December 23, 1892, in Teramo, Abruzzi, Italy, and immigrated to America in 1915. In 1917, Luigi became an American citizen and was drafted in the U.S. Army. When the war was over Luigi accepted a position with the Pennsylvania railroad. He worked with the railroad from 1919 until his retirement in 1960.

Luigi Pompilii has been an outstanding citizen of Delaware County, PA, for almost 80 years. It is my privilege and honor to pay tribute to such a fine American citizen. I would like to take this opportunity to wish Mr. Pompilii a very happy 100th birthday as well as only good health and good fortune in the future.

## TRIBUTE TO HERITAGE BENEVOLENT AND PLEASURE CLUB

### HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. LIPINSKI. Mr. Speaker, on October 4, 1992, the Heritage Benevolent and Pleasure Club, one of the southwest side of Chicago's most active and purposeful social organizations, celebrates the 70th anniversary of its founding. I am pleased to rise and recognize this group on this special occasion.

The club began its organizational career in 1922 with 11 members and today its membership has grown to over 300. The club's membership is largely Slavic-American—one of the strong ethnic groups which make the Chicago such a wonderfully diverse place to live.

As the Heritage Benevolent and Pleasure Club celebrates its 70th anniversary, I am pleased to recognize them for their contributions to our community. As the club is recognized in the Chicago City Council and the Illinois General Assembly, I urge my colleagues to join me in saluting the Heritage Benevolent and Pleasure Club. I hope they will celebrate many more anniversaries in the years to come.

## TAXPAYER ACTION DAY

### HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mrs. PATTERSON. Mr. Speaker, yesterday the Federal Government began a new fiscal year. But, instead of a present, we got more bad news about federal spending. The taxpayers of my district, and from across this Nation are calling on us to act responsibly in the way we operate our Government. They are tired of stories of Government waste that boggle the mind.

On October 17, thousands of concerned Americans will gather at rallies across the country, marking the third annual Taxpayer Action Day. These events are designed to highlight citizens' concerns about wasteful Government spending and about abuse of their tax dollars.

This year, we have an opportunity to face our constituents on Taxpayer Action Day with some good news—if we pass the line item rescission bill that is set to come before us before we adjourn. I urge my colleagues to support H.R. 2164 and send a message that we're ready to act to cut Government waste.

## NATIONAL 4–H WEEK

### HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. NATCHER. Mr. Speaker, once again it is a privilege to join with the members of 4–H as they celebrate National 4–H Week on October 4–11. The various programs offered by 4–H, the rate of participation and the achievement of 4–H'ers are evidence that this year's theme, "4–H: The Difference We Make," is an appropriate one.

In 4–H, each member enrolls in one or more organized projects each year. In 1991, the average was 1.8 projects per member with the most popular projects falling in the areas of animals and poultry, natural resources, food and nutrition, individual and family resources and mechanical sciences.

Along with these projects, 4–H offers much more. This year, efforts continued to expand the Extension's outreach to youth at risk who are most vulnurable because of poverty, lack of parental and community support and negative peer pressure. These efforts include 95 local program sites. About one-third of these sites provide badly needed high quality, school age child care. Another third emphasize scientific, technological and reading literacy. The remaining third form broad coalitions of youth-serving agencies and concerned groups to jointly address the problems of youth at risk.

Another aspect of 4–H programs is the increasingly developing partnerships with other agencies, national associations and private sector partners. One example of these partnerships is the nationwide "4–H Environmental Stewardship" recently developed by the National 4–H Council, Extension Service, USDA, and five major partner corporations. Most 4–H efforts, such as this one, address important issues of society.

These various 4–H programs are reaching a large number of our Nation's youth. Over 6 million youths across the country participated in 4–H youth development programs in 1991. This is an increase of 4.2 percent over the previous year.

My home State of Kentucky had 3,787 4–H clubs, the third highest number of clubs of any State. Kentucky also ranked third among the States in special interest groups in 1991. In addition to this, Kentucky had the highest

number of youths in 4–H instructional TV of any State, with 9,981 participating.

This past year, Kentucky 4–H involved 220,826 young people. Of the potential youths ages 9 through 19, 43 percent participated in some aspect of the program. These young people were assisted by 27,185 volunteer teen and adult leaders.

The county programs in the Second Congressional District of Kentucky, which I have the privilege of representing in Congress, involved a total of 44 percent of potential youths ages 9 through 19 in some aspect of 4–H programs. There were 38,743 youths involved in 1,592 clubs or units led by 4,383 volunteer teen and adult leaders.

Many of these leaders from the Second Congressional District of Kentucky are key leaders in 4–H on a State or national level. Mike Cauldwell of Nelson County serves as vice president of the Kentucky Association of Extension 4–H agents and was recently selected president-elect. Roberta Hunt of Washington County is the immediate past president of the Kentucky Association of Extension 4–H Agents. Mrs. James Brookshire of Breckinridge County continues to serve on the National Extension Advisory Committee. Christa Turner of Nelson County was elected State 4–H secretary last June. Bill Corum of Meade County is immediate past president and serves on the executive committee of Friends of Kentucky 4–H. Linda Jeffiers of Spencer County is secretary/treasurer of Friends of Kentucky 4–H, serves on the executive committee of Friends of Kentucky 4–H and represents her extension area on the State 4–H leaders council. Romanza Johnson of Warren County serves on the board of directors of Friends of Kentucky 4–H. Keith Rogers of Hardin County serves on the board of the State 4–H alumni association and serves on the executive committee of the State 4–H leaders council. Diane Cowles of Warren County is secretary for and serves on the executive committee of the state 4–H leaders council. Gil Cowles of Warren County is on the board of the State 4–H alumni association. Diane Jones of Barren County, Fay Crumbacker of Bullitt County, Margie Brookshire of Breckinridge County and Marilyn Shrader of Hardin County represent their respective areas on the State 4–H leaders council. Representatives on the State 4–H teen council from Kentucky's Second Congressional District are Brad Underwood of Taylor County, Jessica Gentry of LaRue County, Kathy Reding of Nelson County, Kim Akins of Washington County, Laura Lowe of Spencer County, and Susanne Jeffiers of Spencer County.

This year, six leaders from the Second Congressional District of Kentucky were recognized as area champions in the Feltner 4–H Leadership Recognition Program. Adult winners were Romanza Johnson of Warren County, Marion Creech of Meade County, and Fay Crumbacker of Spencer County. Teen winners are Alice Gentry of Warren County, Sarah Fackler of Meade County and Susanne Jeffiers of Spencer County. Romanza Johnson was also honored as one of only five adult State winners.

The quality of the leadership in the Second Congressional District of Kentucky also shows in the accomplishments of the youths active in 4–H. Kimberly Akins of Washington County was one of four delegates selected to represent Kentucky 4–H at the national conference. Meredith Staton of Meade County won the State championship for project records in the dog care division and Wes Chancellor of Daviess County won the State championship in the entomology category. State champions in fashion revue were Tanya Pickering of Meade County in the casual wear division and Jeri Fields or Warren County in the formal wear division. Communications Day State champions are: Justin Morgan of Daviess County in the junior agricultural sciences division, Rebecca Jones of Warren County in the junior animal sciences division, Tanya Pickering of Meade County in the senior creative crafts division and Kelly Haskins of Daviess County in the senior general division.

I would also like to recognize the following 4–H'ers who were winners at this year's Kentucky State Fair: Barren County, Stephen Gardner, Amanda Coomer, Luke McCoy, Cassie Martin, Marion Myatt, Angela Myatt, and Carolyn Thompson; Breckinridge County, Chandra Hobbs; Bullitt County, David O'Bryon; Casey County, Kristy Smith, Jennifer Smith, and Van Dorsten; Green County, Allison Simpson; Hancock County, Carrie Hargis; Hardin County, Michael Rider, Glendale Children's Home, Jason Lynn and Amanda Ramer; Hart County, Laura Perkins; LaRue County, Emi Williams, Patrick Durham, Andy Holbert, and Terry Padgett; Marion County, April Hollon, Joni Payne, and Danielle Ford; Meade County, Kirk Staples, Kevin Waldrip, Matthew Gleitz, and Tonya Pickering; Metcalfe County, Andrea Branstetter; Nelson County, Jacob Miller, Lora Lutz, Kevin Lutz, Mark Lundy, David Urekew, and Alice Dickerson; Spencer County, Sara Bell; Taylor County, Wendy McMahan and Jennifer O'Banion; Warren County, Jessica Chaney, James Chaney, and Mary Fields.

Twelve 4–H'ers from the Second District participated in the American Heritage Program They were among 120 teens and adults who traveled to Washington, DC and stayed at the National 4–H Center while studying and learning more about citizenship and our Government.

At this time I would like to commend all of those associated with 4–H programs, not only in the Second Congressional District of Kentucky, but throughout the country, for all their achievements and I want to wish them success in all their future endeavors.

## SUN-MAID GROWERS OF CALIFORNIA CELEBRATES ITS 80TH ANNIVERSARY

### HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. CONDIT. Mr. Speaker, I rise today to honor one of California's and America's finest farmer owned and operated cooperatives, Sun-Maid Growers of California, which celebrates 80 years of growth and prosperity this year. Founded in 1912 as the California Associated Raisin Co., Sun-Maid has since prospered, overcoming difficult economic times and the pressures associated with agriculture to become the country's leading producer of raisins.

Contributing to Sun-Maid's continued success are the 1,500 growers, who through dedication and hard work, produce approximately 100,000 tons of raisins annually. A key component of Sun-Maid processing and packaging operations in its 100 acre Kingsburg, CA plantsite. This facility, designed and built by Sun-Maid in 1961, is recognized as the world's largest and most modern raisin packing facility, shipping up to 1,000 tons or 90,000 cases of raisins daily. The plant also plays a vital role in the Kingsburg community by employing 600 local citizens and providing important community services.

Today, Sun-Maid Growers' reputation extends well beyond the San Joaquin Valley of 1912. Three-quarters of Sun-Maid's total production is sold throughout the United States and Canada, representing half of the raisins sold by American grocers. The Sun-Maid trademark has become one of the world's most recognized brands as Sun-Maid products are exported to 25 countries abroad and translated into 9 different languages.

I am proud to speak before you on the outstanding accomplishments and merits of this find American farmer owned agricultural cooperative. Sun-Maid growers deserve our recognition and respect for their 80 years of dedication and hard work in creating a world renowned and high quality product. I salute and congratulate Sun-Maid Growers and wish them 80 more years of growth and prosperity.

## TRIBUTE TO MR. WILLIAM L. IVEY

### HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. SPENCE. Mr. Speaker, I wish to take this opportunity to join my fellow South Carolinians in recognizing William L. Ivey, president and chief executive officer, of Columbia's Richland Memorial Hospital upon his retirement. Bill's distinguished career in the field of medical administration has been a testament to dedicated service and unselfish devotion to his fellowman. He may certainly recall with a sense of pride and accomplishment the outstanding contributions he has made. Although Bill has earned the right to take things easier for a while, I am sure that I speak for the entire medical community when I say that he will be greatly missed. I shall always cherish our association and his friendship.

In 1975, when William L. Ivey came to Columbia to be president and chief executive officer of Richland Memorial Hospital it was a local hospital with a shaky fiscal outlook that had a traditional mission of health care delivery. Today, it is a financially strong multibuilding, multicampus health organization that meets health care needs of people across South Carolina. It serves as the major teaching hospital for the University of South Carolina School of Medicine, as the region's trauma, poison control, high-risk pregnancy, and neonatal centers, and as a center for research and development of health care solutions.

Richland Memorial's growth in both size and reputation results from Bill's success in having a supportive board of trustees and in building a team from the educational, governmental, civic, and medical communities, which has worked through strategic planning to ensure that the hospital meets the present and future needs of South Carolinians with quality, state-of-the-art and cost-efficient health care and research.

Bill Ivey brought to Richland Memorial the skills and vision necessary to lead the hospital into its expanded role.

His experience—a combination of academics, patient services, hospital administration, and comprehensive health planning services—and his personal and professional commitment to affordable, quality, health care for all citizens enabled him to set a course for Richland Memorial that has increased its size and services to the State while making it a recognized leader in health care.

Currently, Richland Memorial is a 611-bed hospital with a $200 million operating expense budget employing over 4,000 people on two campuses. It includes two ambulatory health care centers, a regional free-standing Center for Cancer Treatment and Research, the Children's Hospital, and the Heart Centers as well as a medical office building complex. As president and chief executive officer, Ivey was a founding member of the hospital's foundation and its for-profit subsidiary that has engaged in a number of diversification activities.

His career of more that 40 years includes major responsibility for health services development, especially in rural areas and on Indian reservations, while deputy coordinator of the Arizona Regional Medical Program at the University of Arizona; director of the University of North Carolina School of Medicine Private Patient Service; director of North Carolina Memorial Hospital, the school's teaching hospital; and professor in the University's Department of Hospital Administration. He currently serves as an adjunct faculty member of the University of South Carolina and of the University of Alabama/Birmingham.

Since moving to South Carolina, he has served on the board of directors of both the United Way of the Midlands and the South Carolina State Chamber of Commerce and in numerous leadership positions of other local, State, and regional organizations. He has served as vice chairman and as a member of the board of directors of the multistate Carolinas Health and Hospital Services; as a founding member and director of Sun Alliance and SunHealth, Inc., currently a regional alliance of 225 hospitals; a founding director of the Columbia Free Medical Clinic, Inc.; in numerous positions with the American Hospital Association and as an advisor of health care issues to three governors and consultant to various private and public agencies, including the National Institutes of Health.

He was recognized in 1980 as the Public Administrator of the Year by the South Carolina chapter of the American Society for Public Administration.

As a former chairman of the South Carolina Hospital Association in 1980, Bill Ivey was later recognized for his dedicated efforts on behalf of health care services and was awarded the Award of Merit in 1982 and the Distinguished Service Award in 1987.

Bill was instrumental in creating Palmetto SeniorCare, a joint effort between the South Carolina Department of Health and Environmental Control, Health and Human Services Finance Commission, and Richland Memorial Hospital. This project provided comprehensive services to the frail elderly, based on the On Lok model, and is recognized nationally for its innovative approach to the comprehensive care of the frail elderly.

Bill currently serves as immediate past president and as a member of the board of directors of L. R. Jordan Management Society; a member of the Governing Council of the Metropolitan Section of the American Hospital Association; director of SunHealth, Inc; and vice chairman of the South Carolina Cancer Control Advisory Committee. This summer, he was named chairman of the South Carolina Committee, the Newcomen Society of the United States.

Bill was featured in the May—June 1992 cover story of Southern Hospitals that highlighted the successful strategic, operational, and financial goals of the hospital and its leadership.

Cited by the Southeastern Hospital Conference in May 1992 for his leadership in the health care industry and service to civic and community organizations, Bill Ivey received its Distinguished Service Award for Excellence.

For more than a quarter of a century, he has been an active member of the American Hearth Association, serving as its board chairman in three of its States' affiliates, North Carolina, Arizona, and South Carolina, and as a member and vice president of its national board. He has received the Association's Award for Distinguished Achievement and its Gold and Silver Medallion Awards. In June 1992, also Bill received the Lifetime Achievement Award from the American Heart Association, South Carolina affiliate, which is the organization's highest volunteer recognition.

Bill earned his undergraduate degree at Auburn University in Auburn, AL, and completed a master's degree and doctoral course work at the University of North Carolina at Chapel Hill. He served in the U.S. Army in both World War II and the Korean conflict.

As the needs for quality, affordable health care continue to grow, Ivey has promoted an ever-expanding mission of Richland Memorial Hospital, which currently includes plans for the development of a fourth medical office building, a new emergency medical and new psychiatric centers on its 60-acre main campus.

Upon December 31, 1992, Bill Ivey retires as president/chief executive officer of Richland Memorial Hospital after 17 years of dynamic, compassionate, and visionary leadership and will continue to serve as the management consultant to the board of trustees and incoming president of Richland Memorial Hospital.

## VICTORY HOUSING

### HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mrs. MORELLA. Mr. Speaker, I rise today in support of a $1.5 million grant for the construction of a facility to house 30 frail senior citizens in Montgomery County, MD. This grant is a part of the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies appropriation for the 1993 fiscal year, which was passed overwhelmingly by the House of Representatives and the Senate.

Known as Bartholomew House, the facility will be constructed and operated by Victory Housing, Inc., a nonprofit housing agency affiliated with the Archdiocese of Washington. I would like to make special mention of Jean Brady, executive director for Victory Housing in Montgomery County, whose concern for the elderly has inspired the work of Victory Housing and whose expertise will make Bartholomew House a reality.

Bartholomew House will provide a myriad of support services to its residents, including meals, laundry, and an around the clock, on-site service coordinator. The residence will be nonsectarian and will be patterned after the highly successful frail elderly facilities currently operated in Montgomery County by Victory Housing: Raphael House, Mary's House, and Kuehner House. One of these facilities, Mary's House, was the recipient of the President's Point of Light Award.

Mr. Chairman, I am pleased that the Appropriations Committee granted my request for funding for Bartholomew House. Clearly, as the number of senior Americans multiplies and our long-term care services become increasingly strained, it is imperative that Congress ensure access to affordable, quality housing for the elderly.

Victory Housing has a topnotch record of providing dependable, affordable, long-term housing for Montgomery County's frail seniors, particularly those with limited incomes. I am proud and pleased to have helped make the dream of Bartholomew House a reality.

## INTRODUCTION OF H.R. 6069, THE TAXPAYER PROTECTION, DEPOSIT INSURANCE REFORM AND REGULATORY RELIEF ACT OF 1992

### HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Friday, October 2, 1992*

Mr. PETRI. Mr. Speaker, Wednesday, September 30, I introduced H.R. 6069, The Taxpayer Protection, Deposit Insurance Reform and Regulatory Relief Act of 1992.

Briefly, H.R. 6069 will, as the title implies, reform the Nation's deposit insurance system by substituting private management for Government management of what is already an industry funded system. It will take the taxpayer off the hook for any future losses due to bank or thrift failures, and it will dramatically improve the efficiency of the banking industry through substantial regulatory relief and lower insurance premiums.

Bank insolvency losses have unnecessarily reached levels not seen since the Great Depression because mispriced Federal deposit insurance contributed to a series of asset deflations, the major killer of banks and other highly leveraged lenders.

However, bank insolvency losses were largely concentrated in the Southwest and in New England. Overall commercial banking actually performed reasonably well during the 1980's in the other regions of the United States where there was relatively little asset deflation.

The political process, however, understands neither the underlying flaws of Federal deposit insurance nor the regional nature of bank insolvency losses. As usually happens, the Federal Government overreacted in an indiscriminate manner to the problems in recent years among banks and thrifts. Consequently, the regulatory pendulum has swung to an unjustifiable extreme, and the economy is paying the price.

An unwarranted increase in regulatory burdens and costs imposed on healthy banks and thrifts has caused an enormous shift in market share to the less taxed and less regulated channels of intermediation. However, these channels may in fact be less efficient and less capable of supplying credit to important sectors of the economy, such as small business.

My bill is designed to solve these problems and more. The Taxpayer Protection, Deposit Insurance Reform and Regulatory Relief Act, will create a 100 percent cross-guarantee system under which each bank or thrift institution will enter into a contract with an ad hoc syndicate of banks, thrifts, pension or endowment funds, insurance companies and the like to guarantee all of its deposits. Premium rates and safety and soundness requirements will be negotiated contract by contract and will not require Government approval.

The guarantors, who will have their own money at risk, will take over safety and soundness responsibility from the Federal Government. The specific contract provisions for this purpose will vary depending upon the condition and practices of the individual bank or thrift, effectively ending one-size-fits-all regulation.

Each syndicate will employ an independent syndicate agent firm to oversee the performance of the guaranteed bank or thrift. The syndicate, through its agent, will be able to force changes in the guaranteed bank or even close or sell it if it runs into trouble. The agent's independence will prevent anti-competitive behavior.

Various rules for the spreading of risk will ensure the safety of the entire system, including the mandating of minimum numbers of guarantors for each bank, limits on the amount of risk undertaken by any one guarantor, and the inclusion of mandatory stop-loss contracts under which guarantors will pass any excessive losses through to their own second tier of guarantors.

The Government's principal role will be to make sure that contracts are in place and that all the risk dispersion rules are complied with. Backup Federal deposit insurance will be retained but never needed even in circumstances worse than the Great Depression.

The entire system will have to meet a key market test before it can really get started, since no contracts will become effective until a critical mass of at least 200 banks with at least $500 billion of assets has chosen to participate and has contracts ready to go.

Once the system is operating, banks' regulatory burdens will become far lighter, banks will have the opportunity to earn money as guarantors, and their own deposit insurance premiums will be far lower. Premiums will be lower because risk-related premiums will deter unsound lending and guarantors will act quickly to minimize losses if problems develop. For these reasons and many others, I expect this proposal to be attractive to all segments of the financial would.

H.R. 6069 has several important benefits for the economy. The taxpayers will be protected in the event of any future loss due to bank failures. A more efficient banking industry will help promote economic growth. However, the most important benefit of this plan is that it should lead to the risk sensitive pricing of loans, which should moderate speculative bubbles.

It is these positive effects on the economy as a whole that are really the most important reasons for taking a good look at this bill. If we are going to get our economy moving again and get a handle on our deficit problem, we need to fundamentally reform the way we do things in a number of key areas. Health care, welfare, and education are a few of those areas, but financial services is certainly a crucial one. I believe deposit insurance reform is the single most important key to improving financial services.

Mr. Speaker, I ask that in addition to this statement, the text of the bill, a brief synopsis of its contents, a section by section discussion and a question and answer document be printed in the RECORD.

INTRODUCTION TO SECTION-BY-SECTION DESCRIPTION OF THE TAXPAYER PROTECTION, DEPOSIT INSURANCE REFORM, AND REGULATORY RELIEF ACT OF 1992

(Introduced by Representative Thomas E. Petri)

[Graphs not reproducible in the Record]

The Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992 employs the 100 percent cross-guarantee concept to privatize the management of the deposit insurance program now administered by the Federal Deposit Insurance Corporation (FDIC). Although cross-guarantees are simple in concept, the bill is complex because it creates many safeguards, it is being fitted into a tangled web of existing banking regulation, and it gives the four federal bank and thrift regulatory agencies as little discretion as possible in implementing this Act.

Cross-guarantees represent a sharp turn away from the increasingly rigid, indiscriminate, and punitive thrust of banking regulation and towards a reliance on voluntary contracts negotiated in a competitive marketplace and enforced by the judicial system. In effect, the bill dramatically shifts power over banks and thrifts from the political process to the marketplace, thus bringing *perestroika* to American banking.

Despite the magnitude of this deposit insurance reform, the bill does not alter current branching rules or restrictions on the activities or ownership of banks and thrifts. The bill also does not alter in any manner the deposit insurance, activities, or taxation of credit unions nor does it affect in any way the activities or insurance status of money market mutual funds, broker-dealers, insurance companies, or other non-depository financial services firms.

After a general introduction to the cross-guarantee concept and the bill itself, this section-by-section description discusses each provision of the bill along with the public policy rationale for that provision. The bill is divided into two titles that follow a short statement of findings and purposes. The 28 sections of Title I contains a new law that implements the 100% cross-guarantee concept. Six sections of Title II amend existing law to exempt guaranteed banks and thrifts from the safety-and-soundness regulations that increasingly hamper the efficient management of sound, well-managed banks. A seventh section of Title II permits guaranteed banks and thrift to be debtors under the U.S. Bankruptcy Code.

SIX MAJOR GOALS OF THE BILL

One, protect taxpayers. Federal deposit insurance is premised on the flawed notion that government regulation of banks and thrift can protect taxpayers from excessive deposit insurance losses. The bankruptcy of the Federal Savings and Loan Insurance Corporation (FSLIC), which will cost the American taxpayer $200 billion, measured in current dollars, demonstrates the folly of that premise.

The bill protects taxpayers from future deposit insurance losses by (1) creating an actuarially sound, market-driven insurance mechanism that will prevent bank and thrift insolvency losses from ever again approaching the magnitude of the FSLIC's losses and (2) constructing a "solvency safety net" under all banks and thrifts to absorb any and all insolvency losses among these institutions. This solvency safety net, which will not be punctured even in economic conditions far worse than the Great Depression, eliminates as a practical matter, all taxpayer risk in deposit insurance.

Two, provide for market-driven risk-sensitive premiums: Risk-sensitive deposit insurance premiums are key to quickly curbing unwise lending and other bad banking practices that eventually lead to insolvency. The FDIC, under congressional mandate, is attempting to implement risk-sensitive premiums. However, because the FDIC is a government monopoly subject to political pressures, it will never be able to properly price deposit insurance, which must be based on leading indicators of banking risk. In effect, risk-sensitive premiums can be properly priced only in a private, competitive marketplace. This bill creates that marketplace. Each cross-guarantee contract will include a negotiated formula for calculating the risk-sensitive premium a guaranteed bank or thrift will pay to its guarantors. Figure 1 contrasts the risk-sensitive premium rates the FDIC will begin charging in 1993 with the likely structure of risk-sensitive premiums that will develop in the cross-guarantee marketplace.

Three, eliminate "one-size-must-fit-all" banking regulation to promote safer and more efficient banking: Bank and thrift regulations, which reflect the "one-size-must-fit-all" mentality common to all regulatory schemes, cannot easily accommodate the different operating styles demanded by complex financial markets. This inflexibility fosters inefficient banking and "herd effect" that has contributed to many bank and thrift failures.

By shifting the safety-and-soundness regulation of banks and thrifts from government regulation to contracts freely negotiated between individual depository institutions and their guarantors, the bill will permit institutions to negotiate contractual restraints tailored to their individual business strategies. These constraints will serve the same purpose as the safety-and-soundness regulations from which guaranteed institutions will be

exempted under Title II. However, this customizing process will eliminate most of the extremely wasteful regulatory burden imposed on healthy, well-managed banks and thrifts in recent years. The marketplace will not force a $25 million bank to accept contractual terms suitable only for a bank with $10 billion or more in assets.

Since guarantors will assume the entire risk of deposit insurance now partially borne by taxpayers, guarantors become the appropriate (and sufficient) overseers of safety-and-soundness in the banking system. Put more bluntly, since guarantors will put up the bucks if they are wrong, they get to control the risk.

Cross-guarantee contracts will promote diversity within banking by moving away from such absurd notions as uniform capital requirements and arbitrary, inflexible closure rules. Not only will individual banks and thrifts be able to pursue unique business strategies, but they will be able to readily alter their strategies as business conditions change.

Because marketplaces can react more quickly to changing conditions than politically constrained regulatory mechanisms, depository institutions will be freed of the regulatory overreaction that often occurs in the aftermath of regulatorily induced crises. Figure 2 contrasts the swings of marketplace forces with the much more extreme, erratic, and unpredictable swings of the regulatory pendulum.

Because the philosophy of cross-guarantees is fundamentally at odds with the risk-based capital standards formulated under the Basle accord and because of the superior protection provided by cross-guarantee contracts, Title II effectively exempts guaranteed banks from the Basle risk-based capital standards.

Four, eliminate the "too-big-to-fail" problem: The current too-big-to-fail policy reflects the fact that in today's industrialized world, large, insolvent depository institutions cannot be liquidated without creating the potential for a systemic financial crisis. The bill prevents any potential for crisis by mandating that cross-guarantee contracts protect against any loss or delay in payment or settlement of *all* deposits, other interest-bearing liabilities, contracts for future performance, and clearing and settlement balances of guaranteed institutions. Since all deposits in all banks and thrifts will be fully protected against loss, large banks will no longer have any advantage in attracting deposits over $100,000. Guaranteeing all deposits effectively shifts all insolvency risk of a bank or thrift to guarantors who have explicitly assumed this risk, in exchange for a risk-sensitive premium. In effect, cross-guarantee contracts completely separate the pure or riskless funding cost of a bank's or thrift's deposits and other borrowings from the cost of insuring its solvency. This separation permits a more accurate pricing of each function.

Five, avoid another deposit insurance crisis and related economic downturn: Franklin Roosevelt warned in 1933 that federal deposit insurance "would put a premium on unsound banking in the future." Unsound banking is fostered in part by federal deposit insurance that misprices banking risks, such as maturity mismatching and overlending in overheated markets. This mispricing not only led to the FSLIC crisis, but it also fueled overbuilding that in turn caused their recent collapse in real estate values. Not only did the subsequent asset deflation, always a killer of highly leveraged lenders such as banks and S&Ls, cause hundreds of banks and S&Ls to fail, but asset deflation has been a major cause of the longest recession since the 1930s. Risk-related deposit insurance premiums will help prevent such deflations by pricing riskier loans at higher interest rates, thus curtailing the flow of credit that feeds the speculative bubbles that inevitably burst, killing depository institutions and depressing economies.

Figure 3 illustrates some speculative bubbles, and their deflationary aftermaths, of the type that cross-guarantees will dampen by discouraging the lending that pumps up such bubbles. Figure 4 shows the dramatic rise in bank insolvency losses during major asset deflations. These losses are far more severe than those that occur during inflationary times because highly leveraged lenders can more easily protect themselves against the consequences of inflation than they can protect themselves against the consequences of deflation, when collateral values plunge. Interestingly, the FDIC forecasts that bank insolvency losses under the present regulatory regime will continue to at least 2006 at a far higher level than would occur in a more stable economic environment fostered by cross-guarantees.

Six, enhance the performance of the American economy: Cross-guarantees will foster a banking system that lends more wisely, and therefore better serves the myriad, diverse markets that comprise the American economy. Because competitive markets provide choices absent in the regulatory process, a market-driven banking system will avoid the extremes of credit laxness and credit crunch that periodically occur under the present regulatory regime. As a result, the cross-guarantee system cannot help but be more efficient and financially safer than the present overregulated system. Better banking will materially enhance the performance of the American economy, raising the standard of living for its citizens.

Now is an ideal time to implement cross-guarantees. The American economy is in the early stages of what should be a long-term recovery from the deflation-driven recession of recent years, notwithstanding the FDIC's loss forecasts reflected in Figure 4. This long recovery period will permit cross-guarantees to take root in time to begin pricing against trends that otherwise could cause future speculative bubbles that will prove costly, not only to the economy, but possibly even to taxpayers.

### 100 PERCENT CROSS-GUARANTEES—A SIMPLE CONCEPT

The premise that underlies the cross-guarantee system is that private sector equity capital can be used to construct a puncture-proof "solvency safety net" under all banks and thrifts. Under federal deposit insurance, if a bank or thrift fails, most, if not all, of the resulting insolvency loss is borne by a government-administered fund financed by taxes (mistakenly called insurance premiums) levied on surviving institutions. In extreme situations, the general taxpayer pays, as occurred in the FSLIC bankruptcy. The cross-guarantee process privatizes both the management of deposit insurance and all losses it experiences.

The cross-guarantee system focuses on insolvency, the real risk in deposit insurance, rather than just on illiquidity, deposit insurance's "pseudo risk." Bank runs, which lead to illiquidity will be highly unusual events because cross-guarantee contracts will protect *all* deposits against any loss. Indeed, because bank runs destroy franchise value, and therefore equity capital, guarantors will quickly provide emergency liquidity if a bank run does occur in order to minimize damage to the bank's franchise. This damage control will lessen the likelihood that the bank will become insolvent. Figure 5 illustrates the contrast between the liquidity risk and the insolvency risk of deposit insurance.

### IMPORTANT FEATURES OF THE BILL

Many safeguards have been built into the bill to construct a puncture-proof solvency safety net under all banks and thrifts:

Every guarantor under a cross-guarantee or stop-loss contract must itself be unconditionally guaranteed as to its cross-guarantee obligations.

Every cross-guarantee and stop-loss contract must have a stop-loss provision to spread a large loss or series of losses widely but thinly over the broad base of capital committed to the cross-guarantee system.

Isolated "closed loop" situations that would short-circuit the stop-loss feature, allowing an insolvency loss to puncture the stop-loss safety net, will be prohibited. If a closed-loop situation emerges, it will be quickly identified and eliminated.

Every cross-guarantee and stop-loss contract and every guarantor must meet statutorily prescribed risk dispersion requirements.

Nondepository guarantors must meet minimum capital and liquidity requirements.

Cross-guarantee contracts cannot be canceled or allowed to expire before a replacement contract has been obtained.

Affiliated banks must be guaranteed under one contract.

Sufficient emergency liquidity will be available if a bank run occurs.

Cross-guarantees have been made as regulator-proof as possible:

Regulator error has been a major cause of the massive deposit insurance losses of the past decade. The most important function assigned to the FDIC by the bill will be to ensure that every cross-guarantee and stop-loss contract the FDIC approves meets the relatively simple and straight-forward statutory requirements for these contracts. Additionally, the bill lessens the chance for regulatory error by largely eliminating the safety-and-soundness regulatory activities of the FDIC, the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), and the Federal Reserve System.

The bill adapts to the existing complex structure of the banking and thrift industries:

The legal structure of the banking and thrift industries is complex, in part because there are two, and in some states three, regulatorily distinct types of depository institutions. In addition, the dual chartering concept permits banks and thrifts to be chartered, and therefore regulated, by either a state or a federal agency, although federal regulation increasingly trumps state regulation. There also is extensive regulation of bank holding companies, which effectively adds to the complexity of the U.S. banking system. Finally, foreign banks operate extensively in the United States through subsidiary banks, agencies, and branches, some of which currently can accept uninsured deposits. Because the bill simply attempts to reform deposit insurance, every effort has been made not to alter the existing banking structure or the powers banks and thrifts can exercise.

The bill provides for a gradual conversion of banks and thrifts to cross-guarantee contracts:

The bill is self-actuating in that it will not become effective until the later of 18 months after enactment or when "critical mass" is reached; that is, at least 200 banks and thrifts with at least $500 billion of assets have voluntarily obtained cross-guarantee contracts. Once critical mass is achieved, the nation's remaining banks and thrifts will have up to eight years to obtain a cross-guarantee contract. This gradual phase-in of cross-guarantees, and the related downsizing of the bank and thrift regulatory agencies, will permit a relatively painless transition to cross-guarantees.

Non-banking firms can participate as guarantors:

The nation's banks and thrifts, with approximately $300 billion of equity capital, have more than enough equity capital to construct the puncture-proof solvency safety net mandated by the bill. However, in order to broaden the base of the guarantors of bank and thrift liabilities, the bill contains provisions permitting finance and insurance companies, manufacturing and service firms, pension and endowment funds, and even very wealthy individuals to easily and efficiently participate in the cross-guarantee process as non-depository guarantors. Potentially, non-depository guarantors could place more than *$7 trillion* of equity capital at risk, more than the total liabilities of the nation's banks and thrifts. While the system will need only a fraction of this capital to sufficiently broaden the capital base of the cross-guarantee system, the ready availability of this vast sum of additional capital ensures that the cross-guarantee marketplace will not "freeze up," causing cross-guarantee premium rates to skyrocket during those times when government policies destabilize the nation's financial system.

ORGANIZATION AND SUMMARY OF TITLE I

The first section of the bill, Sec. 101, defines 46 terms widely used in the bill. Most of these terms are unique to the cross-guarantee concept; the rest are modifications of definitions used elsewhere in the banking statutes (Title 12 of the United States Code). Definitions of other terms have been placed where needed in the text of the statute. Sec. 102 provides some rules of construction in interpreting terms in the bill.

Sec. 111 is the all important operative clause, or ignition switch, of the bill. This section provides that every bank and thrift operating within the United States must become guaranteed under a cross-guarantee contract, subject to a transition schedule set out in Sec. 141 and Sec. 142.

Sec. 112 describes the parties to the cross-guarantee, stop-loss, and group cross-guarantee syndicate contracts authorized by Title I. These parties are the guaranteed financial group, its syndicate of direct guarantors, and the agent for those guarantors, called the syndicate agency. Figure 6 illustrates the parties to a cross-guarantee contract. This section also allows majority controlled subsidiaries to be included under the same contract as a guaranteed bank or thrifts. It also sets out several rules governing the relationship between a syndicate agent and the other parties to these contracts.

Sec. 113, in many ways the heart of the bill, sets out the requirements that all cross-guarantee and stop-loss contracts must meet. Its first subsection, Sec. 113(a), prescribes the all-important stop-loss provision that must be incorporated in every cross-guarantee and stop-loss contract. Although it will rarely be invoked, the stop-loss provision plays an important role in ensuring that a large loss or a concentration of losses in a short period of time will be spread widely but thinly over many guarantors. This loss spreading, coupled with the requirement that every guarantor itself be guaranteed as to its cross-guarantee obligations (Sec. 114(a)(1)(E) and Sec. 115(a)(1)), constructs a puncture-proof solvency safety net that will fully absorb the insolvency loss in any bank or thrift failure, even in economic conditions far worse than the Great Depression.

Other provisions of Sec. 113 address the division of liability among guarantors, the maximum period of any contract (five years), contract cancellations and renewals, substitutions of direct guarantors, modifications of contracts, and rule of construction that provides that any term or condition not expressly prohibited by the Act or by other law may be included in a cross-guarantee or stop-loss contract.

Sec. 114 and Sec. 115 set out additional requirements applicable, respectively, only to cross-guarantee and stop-loss contracts. The most important are the risk-diversification requirements each contract must meet the requirements for and limitations on the types of liabilities that can be guaranteed under a contract. The risk-diversification provisions, by preventing concentrations of insolvency risk, lessen the likelihood that the stop-loss provisions of Sec. 13(a) will ever be invoked. For example, all banks and thrifts with more than $10 billion in assets will have to have at least 100 guarantors, none of which can assume more than 1 percent of that institution's insolvency risk.

Mandating that certain obligations, notably *all* deposits, be guaranteed under cross-guarantee contracts, ensures that those types of banking liabilities that create systemic risk (that is, a domino effect) within the financial system are protected against any loss. This requirement also eliminates too-big-to-fail as a political issue because all deposits will be protected no matter how large or how small an institution. Guarantors will bear all risk of insolvency; large depositors and other guaranteed creditors will bear none of the risk.

Sec. 116 establishes the eligibility of and requirements for direct guarantors under cross-guarantee and stop-loss contracts. While any guaranteed bank or thrift automatically can serve as a direct guarantor (but cannot be forced to serve as a direct guarantor), nondepository guarantors must meet substantial tests of net worth (at least $100 million) and liquidity. Sec. 116 also establishes certain risk spreading requirements for direct guarantors to complement the risk diversification requirements for cross-guarantee and stop-loss contracts. Forcing guarantors to spread or diversify the cross-guarantee risks they assume substantially reduces the likelihood that an individual guarantor will have to utilize the stop-loss provision of Sec. 113(a).

Sec. 117 sets out various provisions governing cross-guarantee and stop-loss syndicates and syndicate agents, including the powers and duties of syndicate agents and the right of a syndicate to fire its agent at any time without cause. Sec. 118 establishes the powers and duties of a cross-guarantee syndicate once it assumes control of a guaranteed bank or thrift under the terms of that institution's cross-guarantee contract. Sec. 119 grants the federal courts exclusive jurisdiction over the enforcement of cross-guarantee and stop-loss contracts.

Sec. 121 establishes the FDIC as the exclusive regulator of the cross-guarantee process. Because of its sharply limited responsibilities, the FDIC will have limited enforcement powers, which will help to restore a reasonable balance between the rights of insurers and insureds that recent banking legislation has badly undermined. Sec. 122 establishes the process by which the FDIC will approve or reject cross-guarantee and stop-loss contracts. Sec. 123 creates the Central Electronic Repository (CER) which shall maintain the official version of all proposed and approved cross-guarantee and stop-loss contracts. The CER, which will be self-funded and directly accessible by all participants in the cross-guarantee process, will be administered by a board of directors elected by depository institutions and syndicate agents and regulated by the FDIC.

Sec. 124 prohibits isolated "closed loop" situations whereby a group of institutions guarantee each other without any of that risk being shared with guarantors outside the group. The FDIC is barred from approving any contract that would create an isolated closed-loop. Should a closed loop develop, the FDIC is empowered to force the participants in the loop to modify their contracts to link them into the one giant closed loop that should encompass all participants in the cross-guarantee system.

Sec. 126 directs syndicate agents to periodically report to the FDIC the marked-down value of assets owned by guaranteed financial groups and the amount of insured deposits if held by those institutions; that is, deposits up to $100,000. Sec. 127 empowers the FDIC to appoint a conservator or receiver for any guaranteed bank or thrift whose asset value is only slightly above the value of its insured deposits or which has not eliminated a closed loop situation when directed to do so by the FDIC. It would be a folly for an institution's direct guarantors to permit an FDIC takeover of that institution, but this power has been provided as a further protection to taxpayers and the cross-guarantee system. The guarantors are required to indemnify the FDIC for any losses in such a situation. Sec. 127 also allows the FDIC to take over an institution that was part of an isolated closed loop and did not obtain a new contract. Any losses that take place due to such a takeover will be recycled back to all depository institutions. Hence, even in the rare case where a crack is found in the cross-guarantee system, holders of guaranteed obligations and the taxpayer are still protected against any loss whatsoever.

Sec. 128 creates the FDIC Back-Up Fund (BUF) to explicitly protect insured depositors against an economic calamity such as a nuclear war that would cause the entire banking system to collapse. Such a system-wide collapse is the only way a loss can reach the BUF. Politically, the BUF also provides a rationale for permitting guaranteed institutions to continue displaying the FDIC logo stating that a government agency protects deposits up to the present $100,000 insurance limit. As a practical matter, the BUF is a political facade because the federal government would begin to default on its obligations before any bank or thrift insolvency losses reach the BUF. Therefore, Sec. 128 could be dropped from the bill without doing any harm to the cross-guarantee concept.

The BUF will be funded initially by transfers from the BIF and SAIF as banks and thrifts become guaranteed for the first time. These transfers will equal .2 percent of just the insured deposits of these institutions. Based on the present quantity of insured deposits, the BUF would have an initial balance of at least $5 billion by the time all banks and thrifts become guaranteed. Inter-

est income on BUF investments not used to fund the FDIC's modest operating expenses will accumulate in the BUF. Figure 7 illustrates the relationship of the BUF to the rest of the cross-guarantee system.

Various miscellaneous provisions regarding cross-guarantees are set out in Sec. 131, Sec. 132, Sec. 133 and Sec. 134. Sec. 131 directs the FDIC to ensure that all deposit-taking institutions, other than credit unions, money market mutual funds, broker-dealers, and currently uninsured branches of foreign banks operating in the United States, become guaranteed under a cross-guarantee contract. Sec. 132 creates the Cross-Guarantee Advisory Committee to advise the FDIC on the regulation of the cross-guarantee system. Sec. 133 empowers Federal Reserve banks to lend to guaranteed institutions without requiring collateral; however, the Fed is not barred from requiring that loans to guaranteed borrowers be collateralized. Sec. 133 also requires the Federal Reserve's Board of Governors to certify annually to the House and Senate banking committees that Federal Reserve banks have not suffered any losses in lending to guaranteed institutions. Sec. 134 empowers guaranteed depository institutions to continue to display the FDIC insurance logo and also to display a second logo stating that all deposits in the institution are protected under a cross-guarantee contract approved by the FDIC.

Sec. 141 and Sec. 142 govern the conversion of banks and thrifts to guaranteed status. Essentially, no bank or thrift can become a guaranteed institution until the later of 18 months after the enactment of the bill or when "critical mass" is reached. Critical mass will occur as soon as the FDIC has approved cross-guarantee contracts for at least 200 banks and thrifts with total assets of at least $500 billion. The first batch of approved contracts actually will become effective forty business days after critical mass is reached, on the "Big Bang" date, referred to in the bill as the "cross-guarantee activation date." Big Bang will kick off an eight-year transition schedule under which all FDIC-insured banks and thrifts must become guaranteed institutions. Banks and thrifts with more than $1 billion of assets will have to obtain a cross-guarantee contract within two years after Big Bang; institutions with less than $25 million of assets will have eight years after Big Bang to obtain a contract. Sec. 143 provides that the FDIC will immediately take over any bank or thrift that does not meet the Sec. 142 timetable.

Sec. 144 provides that upon becoming a guaranteed institution, banks and thrifts will pay an exit fee, if needed, to their respective deposit insurance funds (the BIF or the SAIF). On the eighth anniversary of Big Bang, any unencumbered balances remaining in the BIF and SAIF will be transferred to the BUF. Sec. 145 provides generous severance pay and relocation allowances for the 15,000–20,000 employees of the federal and state bank and thrift regulatory agencies that will no longer be needed by these agencies as banks and thrifts shift to a guaranteed status. These severance benefits will be funded by the BIF or SAIF or, if necessary, indirectly through the exit fees assessed under Sec. 144. The final section of the bill, Sec. 146, provides for the abolition of the Federal Financial Institutions Examination Council on the eighth anniversary of the critical-mass date.

ORGANIZATION AND SUMMARY OF TITLE II

The seven sections of Title II basically divide into major subject areas the substantial exemptions from existing banking law guaranteed banks and thrifts will enjoy. These exemptions are part-and-parcel of the bill. Title I cannot be enacted without its inseparable complement, Title II. The eleven subsections of Sec. 201 exempt guaranteed national banks from various safety-and-soundness provisions of the National Banking Act and related laws dealing with national banks. State-chartered banks presumably will switch to national bank charters if their states do not enact comparable exemptions. The ten subsections of Sec. 202 exempt members of the Federal Reserve System from various safety-and-soundness requirements now applicable to Fed members, both national banks and state member banks.

The thirteen subsections of Sec. 203 amend various provisions of the Home Owners' Loan Act (HOLA) to exempt federally chartered S&Ls and savings banks and federally insured, state-chartered thrifts from the safety-and-soundness provisions of HOLA. The six subsections of Sec. 204 deal with savings and loan holding companies that own guaranteed thrifts. Sec. 205 exempts guaranteed banks and thrifts almost entirely from the provisions of the Federal Deposit Insurance Act. However, this section does empower guaranteed institutions to continue to display the FDIC logo. Sec. 207 exempts guaranteed banks and thrifts from four miscellaneous provisions of the Banking Code.

Sec. 206 amends the Bankruptcy Code (Title 11 of the U.S. Code) to permit a guaranteed depository institution or any subsidiary covered by a cross-guarantee contract to be a debtor under either Chapter 11 (reorganization) or Chapter 7 (liquidation) of the Bankruptcy Code. Involuntary bankruptcies brought by disgruntled creditors can be commenced only under Chapter 11. Voluntary bankruptcies can be brought under either Chapter 7 or 11, but only with the express, written consent of the institution's cross-guarantee syndicate. In a sharp exception to bankruptcy law as it now applies to debtors, the cross-guarantee syndicate, as "debtor-in-possession," can operate the depository institution without judicial interference while the institution is in a bankruptcy proceeding. But by exercising that control, the syndicate assumes a fiduciary responsibility to nonguaranteed creditors of the institution.

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SYNOPSIS OF THE TAXPAYERS' PROTECTION AND DEPOSIT INSURANCE REFORM ACT OF 1992

INHERENT AND IRREPARABLE FLAWS IN FEDERAL DEPOSIT INSURANCE

As Roosevelt warned in 1933, it protects bad banks as well as good, it puts a premium on unsound banking, and it has cost taxpayers billions of dollars.

As bank and S&L insolvency losses soared during the 1980s, regulators moved too slowly to deal with failing institutions. This made losses even worse.

Its mispricing caused a substantial misallocation of credit in the 1980s that has greatly aggravated the current recession; now its escalating flat-rate premiums overcharge good banks and thrifts and dampen their willingness to lend. Consequently, today some sound businesses cannot get sufficient credit.

Deposit insurance must be priced to reflect the riskiness of individual banks, but the FDIC cannot properly set risk-sensitive premiums because proper prices can be established only in private, competitive markets.

Federal deposit insurance has become increasing dependent upon extensive regulation that cannot keep up with rapid changes in a financial world driven increasingly by electronic technology. Government regulation has become counterproductive and harmful to good banks and thrifts and to America's international competitiveness.

BASIC PRINCIPLES OF THE 100 PERCENT CROSS-GUARANTEE SOLUTION

End taxpayer risk and bailouts by ensuring that private sector equity capital always protects ALL bank and thrift deposits from loss.

Let private markets set risk-sensitive deposit insurance premiums, based on *leading* indicators of banking risk, that will discourage unwise banking practices.

Shift "safety-and-soundness" regulation for banks and thrifts to those who bear the risk of loss, the owners of the private capital protecting depositors.

Also shift the bank closure decision to those bearing the risk of loss. These guarantors have the strongest incentive to minimize losses and therefore should control the risks they have assumed.

Use a "stop-loss" mechanism to spread the bank insolvency risk widely, and therefore thinly, over the equity capital of the financial world.

Retain federal deposit insurance as backup insurance only for deposits up to $100,000.

SPECIFICS OF THE 100 PERCENT CROSS-GUARANTEE SOLUTION

Each bank and thrift (but NOT credit unions) enters into a contract with a syndicate of banks, thrifts and/or other well capitalized entities that guarantees the original contractual terms of all deposits and most other liabilities of the guarantees the original contractual terms of all deposits and most other liabilities of the guaranteed institution.

Premium rates and other contractual terms are negotiated on a syndicate-by-syndicate basis and are NOT subject to government regulation or approval.

Numerous safeguards protect taxpayers against another deposit insurance bailout. A mandatory "stor-loss" mechanism passes part of any large insolvency loss to the guarantors' guarantors. Risk dispersion rules require a minimum number of guarantors for any one bank or thrift and limit both the aggregate risk assumed by a guarantor and the percent of risk any one guarantor assumes for any one bank or thrift.

Cross-guarantee contracts cannot be canceled unless the guaranteed bank or thrift first obtains a replacement contractor or is acquired by another guaranteed bank or thrift. Once guaranteed, no institution can operate without a cross-guarantee contract in place.

Each syndicate retains an agent to monitor the financial condition of the bank or thrift it has guaranteed to ensure adherence to all contractual terms and to act as a buffer to protect the competitive secrets of the guaranteed institution.

The FDIC regulates the cross-guarantee process and ensures that all guarantors have sufficient capital relative to the risks they have assumed. Safety-and-soundness concerns shift to the syndicates. The bank regulatory establishment is then substantially downsized as banks obtain guarantees.

The FDIC insure deposits up to $100,000, but only on a back-up basis. It should never experience a loss. Guaranteed banks can still post the FDIC insurance logo.

Weaker banks and thrifts have ample time to raise the capital needed to obtain a cross-guarantee contract or to merge with another institution. If necessary, institutions obtaining guarantees pay an exit fee to cover any losses the FDIC incurs in disposing of the

few banks and thrifts that cannot raise sufficient capital or find a merger partner.

Phase-in provisions give smaller banks and thrifts up to ten years to obtain a cross-guarantee contract. The first contracts become effective when 200 banks or thrifts, with total assets of at least $500 billion, have approved contracts in hand.

A competitive market with an ample pool of potential guarantors protects banks from premium overcharges, ends concerns about capital adequacy in the banking system, and permit guarantors to accept or reject individual cross-guarantee risks as they see fit.

Although there should be no bank runs, cross-guarantee contracts protect any loan a Federal Reserve bank makes to a guaranteed institution experiencing liquidity problems.

ARGUMENTS AGAINST CROSS-GUARANTEES AND RESPONSES TO THOSE ARGUMENTS

INTRODUCTION

The "Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992," a bill introduced by Rep. Thomas Petri (R–WI) creates a new cross-guarantee deposit insurance system unfamiliar to many observers, experts, and industry participants. This document helps alleviate this unfamiliarity by stating various arguments against the cross-guarantee concept and providing a succinct response to each argument.

ARGUMENTS AND RESPONSES

Argument: The cross-guarantee system will not have adequate capital to withstand a severe economic downturn.

Response: Under cross-guarantees, several hundred billion dollars, and potentially trillions of dollars, of private sector equity capital will stand behind the cross-guarantee system. As a result, the cross-guarantee system will have sufficient equity capital to remain solvent through any economic downturn, even one several times worse than the Great Depression. Only a calamity such as a nuclear war or major meteor strike could bankrupt the system. Of course, any such event probably would first bankrupt our increasingly indebted federal government.

Not only could the cross-guarantee system withstand an extremely severe economic shock, such as another depression, its use of risk-sensitive pricing will help avert such economic crises. Should the economic data used by guarantors indicate that a sector of the economy is beginning to experience a "boom" (that will lead to a "bust"), premium rates will likely rise for any bank or thrift that lends heavily into that sector of the economy. For example, premium rates would have risen for farm lending in the late 1970s, when the Farm Credit System expanded its lending to already over indebted farmers. Premium rates also would have risen for loans to the energy sector during its artificial boom in the late 1970s and early 1980s and for commercial real estate development loans during the mid- and late-1980s when lending took place despite rising vacancy rates. By raising premium rates for lending to "overheated" sectors of the economy, cross-guarantees will help eliminate some of the lending that feeds such "bubbles," dampening both the boom and the consequences of the inevitable bust. In effect, cross-guarantees will cause capital to "run" from an overheated sector of the economy before the bubble inflates too much.

In general, risk-sensitive pricing also will serve as a clear signal of the market's disapproval of any destabilizing government policy. If the federal government recklessly subsidizes farm lending to help farmers finance purchases of overpriced farmland, guarantors will react by raising premium rates for farm lending, sending notice of the potential dangers of the government's policy. Hopefully, this marketplace response will help to curb financially destructive government policies.

Argument: The S&L crisis would have bankrupted the cross-guarantee system.

Response: Given the total equity capital of all the guarantors, the cross-guarantee system would have had sufficient equity capital to handle the S&L crisis. But more important, under cross-guarantee, the S&L crisis would never have happened.

If cross-guarantees had been in place by 1960, the system would have forced S&Ls to curtail their severe maturity mismatching, the root cause of the S&L crisis, long before the record-high interest rates of the early 1980s—after all, the dangers of such severe maturity mismatching have long been understood. Specifically, risk-sensitive premiums would have forced S&Ls, certainly in the aftermath of the interest rate spike in 1966, to issue more adjustable-rate mortgages, to fund fixed-rate mortgages with longer-term deposits, and possibly to securitize some mortgages. These changes would have allowed S&Ls to easily survive the high interest rates of the early 1980s, much as commercial banks did.

Moreover, even assuming the S&L crisis would have reached the stage it had in 1983, when more than 500 insolvent S&Ls remained after interest rates fell, guarantors (with their own capital at risk) would never have delayed closing insolvent thrifts. Guarantors also would not have allowed wasteful lending to take place, tolerated crooks looting the institutions they guaranteed, denied that losses existed, or shrunk their monitoring role in the face of a mounting crisis.

Argument: The system will not have adequate capacity to prevent a "freeze up" in the cross-guarantee marketplace.

Response: In recent years, as losses from torts litigation have mounted, many insurance markets have experienced an unwillingness among insurers to underwrite risks except at extremely high rates. Critics claim the same thing will happen in the cross-guarantee marketplace as soon as a glut of losses occurs. Hence, when a bank or thrift seeks to obtain a new cross-guarantee contract, it will have to pay outrageous premium rates to attract any guarantors.

Such a "freeze up" can only occur if profits cannot be earned at reasonably low premium rates or no potential guarantor exists to take advantage of the profit opportunity. Unlike many risks burdened by the torts system, guarantors can underwrite sound banks and thrifts at low premium rates throughout an economic cycle and still make large profits. And unlike other insurance markets, the total amount of equity capital of guarantors available to underwrite cross-guarantee risks dwarfs the amount of risk to be underwritten.

If cross-guarantees were implemented today, about $4.1 trillion in liabilities would be guaranteed under the system. Assuming an average premium rate of three basis points per dollar of liability guaranteed, cross-guarantee contracts would generate $1.2 billion annually in premium income. Since under the cross-guarantee bill, a guarantor's total premium income cannot exceed 3 percent of its equity capital, approximately $40 billion in equity capital, at a minimum would be needed among the direct guarantors to underwrite the system.

The banking and thrift industries alone would have enough capital to adequately handle such risks. The book value of the capital of the banking and thrift industries today is about $300 billion; the market value probably is actually higher. Such amounts mean that almost eight times the needed capital exists within those two industries. That capital alone is more than adequate to underwrite the cross-guarantee system.

The bill, however, also allows "nondepository guarantors," such as manufacturing companies, service firms, insurance companies, other financial services firms, pension funds, endowment funds, and wealthy individuals to be guarantors. Such nondepository guarantors could bring to the table at least $7 trillion in additional equity capital to stand behind the risks of the cross-guarantee system. As a result, plenty of capacity will exist. It is hard to imagine that a market where $7 trillion in equity capital is chasing potential profits would "freeze up" over the prospect of underwriting $1.2 billion in annual premium income.

Finally, note that even if the cross-guarantee marketplace should "freeze up," banks and thrifts can play both sides of the game. If premium rates rise dramatically, banks and thrifts can step up their presence as guarantors in the marketplace, meaning that their premium income as guarantors can rise to offset any increase in their own premium rates. In effect, banks and thrifts will be able to "net down" the cost of their cross-guarantees if premium rates begin to rise. The presence of the industry as both guarantors and guaranteed parties also make it much more unlikely that a mass exodus of guarantors would take place in the first place.

Argument: Taxpayers are still at risk under the cross-guarantee system.

Response: There is a better chance that Elvis is still alive than that taxpayers will suffer a loss under the cross-guarantee system. Although the cross-guarantee system retains federal deposit insurance coverage for deposits up to $100,000 through a new Backup Fund (largely as a transition measure so that depositors can remain protected under the old system while getting used to the new system), the risk of cross-guarantees to taxpayers is nonexistent as a practical matter. Because of the layers and layers of protection provided to taxpayers under this bill, taxpayers simply cannot suffer a loss.

Under the cross-guarantee system, the equity capital of the guarantors in the system ultimately stands behind the system. Therefore, losses in the system would have to basically wipe out the equity capital of *all* of the guarantors before they could reach taxpayers. Such losses could only arise due to a nuclear war or a large meteor strike in which the economy is essentially destroyed. Indeed, in such circumstances, it is questionable whether taxpayers would have any money with which to pay losses anyway; there is, after all, a practical limit on how much the government can tax.

But what happens if a loss passes through some "crack" in the system? This can only occur if the FDIC negligently allows some "isolated closed loop" to arise, in which a small set of institutions guaranteed each other and therefore were not connected with the rest of the system. Such an isolated closed loop is forbidden under the bill and, given the ease with which any participant in the system can spot such a loop, the FDIC would have to reach new heights of incompetence to allow an isolated closed loop to take place.

Nevertheless, since regulatory incompetence can never be totally discounted, the

bill includes protective mechanisms should a closed-loop ever occur. First, and industry financed Cross-Guarantee Backup Fund (BUF) will exist (with a balance equal to 0.2 percent of insured deposits) to underwrite any losses that might take place due to FDIC incompetence. Second, should the BUF somehow prove inadequate, the FDIC can assess depository institutions to cover any shortfall and to replenish the fund.

The bill also gives the FDIC the power to assume control of any insolvent depository institution if the value of the institution's assets falls to the point where its assets are only worth two percent more than BUF-insured deposits. This provision reassures those who believe the taxpayer is still at risk under the cross-guarantee system by providing a mechanism to close a depository institution as soon as it threatens to cause a loss for the BUF. It also allows the government to shut down a "renegade" situation, where a syndicate has for some reason refused to assume control of a deeply insolvent institution. Since such a scenario is extremely unlikely, the FDIC will probably never use these powers to take over a depository institution. But should the FDIC do so, the guarantors of the institution taken over will be obliged to indemnify the FDIC for any losses to the BUF.

Given all these protections, taxpayers simply will never suffer a loss.

Argument: If taxpayers are at risk, even trivially, the FDIC should still perform annual examinations of banks and thrifts and closely monitor depository institutions. Safety-and-soundness regulation needs to be retained for the same reason.

Response: Such examinations, monitoring, and regulation would be costly, duplicative, and serve no function. To start with, guarantors will perform these functions and have a strong economic incentive to do a good job, since their own money is at stake. More to the point, given the only two ways the FDIC could lose money under the system, examinations and regulations would do little good.

Taxpayers are at risk under the cross-guarantee system in two different ways. One is that a major catastrophe could occur such as a nuclear war or a large meteor strike. But if regulatory examinations could not prevent Charlie Keating's shenanigans, they are not going to stop nuclear wars or meteors, the 1991 banking law (The Federal Deposit Insurance Corporation Improvement Act of 1991, or FDICIA) notwithstanding. Hence, examinations and regulations could not prevent losses from occurring in this way.

Losses could also occur if the FDIC negligently allows an isolated closed loop to arise. But to prevent that from happening, the FDIC must simply enforce a prohibition against such a loop. It is difficult to see how giving the FDIC the power to examine institutions would prevent it from negligently allowing a closed loop to arise. All the information it needs to prevent a closed loop will be present in the approved contracts recorded in the Central Electronic Repository. A computer program would quickly spot any problem.

Since FDIC examinations, monitoring, and safety-and-soundness regulation could not prevent losses to the taxpayer under the cross-guarantee system, no reason exists for imposing this duplicative and wasteful cost burden on guaranteed institutions.

Argument: Cross-guarantees would create too much radical change in the banking and thrift industries.

Response: Would cross-guarantees lead to dramatic change in the banking and thrift industries? Yes. Would this change be for the better for the institutions, their customers, and the economy as a whole? Yes. Would the changes be "too radical"? No.

Cross-guarantees are no more radical than recent changes in banking laws, such as FDICIA and FIRREA (The Financial Institutions Reform, Recovery, and Enforcement Act of 1989). These laws have raised deposit insurance premiums and increased regulation of the industry to a level which many observers would view as quite "radical," particularly in their negative impact upon healthy, well-managed institutions. By contrast, cross-guarantees would lead to premium rates, "regulation" of guaranteed institutions, and capital standards more befitting the normal operation of banks and thrifts.

For depositors and borrowers, cross-guarantees would cause little disruption. Indeed, the changes, such as greater protection for depositors, more credit availability for sound borrowers, and fewer disruptive bank and thrift failures, would be for the better. For banks and thrifts, the changes would be more dramatic, but even there it is easy to exaggerate. A guaranteed bank or thrift will no doubt be subject to many of the same restrictions, such as lending limits, limits on loans to directors and officers, and minimum requirements for holding liquid assets and capital to which it has long been subject. The one difference is that such restrictions would be the byproduct of contractual negotiations that would allow banks and thrifts to better tailor these restrictions to fit their own operations.

Closure decisions also will not differ greatly from those of the government regulatory agencies. In other words, as a bank or thrift runs out of capital, it will be closed. The only differences are that banks and thrifts can no longer expect forbearance and they no longer would be subject to the whims of a monopoly regulator in deciding whether they were solvent, since a bank or thrift can always attempt to find a new syndicate to guarantee it.

The cross-guarantee system also will include a lengthy transition period, particularly for the smaller institutions which may have the greatest difficulty adjusting to the new system. This transition period (a minimum of nine and one-half years) ensures that institutions can take their time in adapting to cross-guarantees.

Argument: Depositors will not have much faith in the cross-guarantee system. Consequently, runs will occur on guaranteed institutions.

Response: Partly because of this fear, the federal government will remain as the "ultimate" guarantor, or "guarantor of last resort," of deposits insured by the BUF up to $100,000. This means the FDIC logo will remain on the door. Although the cross-guarantee system will effectively eliminate all taxpayer risk from deposit insurance, the symbolic presence of the FDIC sticker should help in the transition as depositors adjust to the cross-guarantee system. Depositors can accurately be informed that the cross-guarantee system does not replace the coverage provided by the FDIC, but strengthens it.

"Irrational runs may occur. But such runs occur today. Many depositors with less than $100,000 in a failing bank or thrift "run" today despite the government guarantee. Indeed, if anything, under the cross-guarantee system, "irrational" runs may prove less likely, because the system will be allowed to advertise that *all* deposits are protected. Today, because some deposits are not protected under the current system, unsophisticated depositors vaguely hear stories about depositors not getting their money. Such stories make depositors uncertain about whether they are protected, contributing to runs. If instead the message is that all deposits are unconditionally protected, depositors may be less uncertain, and therefore much less likely to run.

In any case, over the course of time depositors will develop at least an intuitive understanding of the scope of the coverage provided by cross-guarantees. As a result, in the future, it may be possible to remove the "symbolic" government guarantee without negatively affecting the faith in the system.

Finally, should depositors run on any guaranteed bank, the guarantors will provide emergency liquidity, in order to keep customers and preserve the franchise value of the institution. Guarantors, after all, have an incentive to do so since they are ultimately liable for any losses that might occur due to the guaranteed bank's illiquidity. Indeed, guarantors have a stronger incentive to provide liquidity than the Federal Reserve, which could lose money when lending in such situations, and therefore has in the past sometimes moved too cautiously (such as during the Great Depression). Although highly unlikely, should Federal Reserve liquidity itself be needed, the Federal Reserve could lend to a guaranteed bank, knowing that its loan was fully guaranteed under the cross guarantee system.

Argument: All private deposit insurance systems have failed in the past, and the same thing would happen to cross-guarantees.

Response: All private deposit insurance systems have *not* failed in the past. Prior to the Civil War, Ohio, Indiana, and Iowa had private deposit insurance systems for commercial banks that were successful and perhaps would have evolved further, except that the National Banking Act effectively drove them out of business. Interestingly, each of these plans was based on the concept of "mutual guarantees," where each bank within the group was responsible for the losses of any other bank. Because their equity capital was at stake, the banks had a strong incentive to monitor each other closely, which virtually eliminated bank failures among insured institutions. More important, no depositor or noteholder in a bank under these plans ever lost any money.

By contrast, the many state deposit insurance systems that failed did not place the equity capital of the insured banks behind each other. Instead, they relied on a central fund that had inadequate resources to handle major losses. Moreover, since the amount an insured bank paid into the system was not directly related to another insured institution's losses, the insured banks had no incentive to monitor each other.

The FSLIC and FDIC largely emulated the state deposit insurance system that *failed*, with insured banks and thrifts paying into a central reserve fund and having little control over the activities of their fellow insured institutions. By contrast, cross-guarantees resemble the state plans that worked. Like "mutual guarantees," the cross guarantee system puts the equity capital of the guarantors behind the risks they underwrite. And, it gives guarantors the power to monitor institutions and close troubled ones.

But cross-guarantees also represents a considerable improvement on those successful state deposit insurance plans. First, the amount of equity capital standing behind guaranteed institutions under the cross-guarantee system, as noted earlier, dwarfs

that of the successful state systems. Second, cross-guarantees will rely more on risk-sensitive premiums to control risk-taking. Third, the cross-guarantee system establishes a much more flexible marketplace that allows guaranteed institutions to tailor their cross-guarantee contracts to their individual situations. Fourth, cross-guarantees have a stop-loss requirement to spread risks and other protections to keep losses from leaking out of the system.

Argument: The cross-guarantee system needs a central reserve fund to cover losses, other than just the Back-Up Fund (BUF).

Response: What stands behind the guarantees under the cross-guarantee system is the equity capital of the guarantors. As long as equity capital exists to pay any guarantee, there is no reason to create a central reserve fund. Creating a segregated fund will not make capital more readily available to pay for a loss, since guarantors already will have a legal duty to pay, will be subject to damages should they not pay, and second-tier guarantors must pay should the direct guarantors not do so. A segregated fund might, however, create the impression (and hence the political reality) that payments into the fund are a *cap* on a guarantor's liability, greatly undercutting the amount of equity capital standing behind the system.

Beyond that, a central reserve fund will create a couple of problems. First, paying losses from a central reserve fund might divorce a guarantor's risk of loss from the institution which it monitors, greatly reducing a guarantor's incentive to monitor. Second, a central fund, even if just for the purpose of having a particular guarantor's capital "ready to go," would greatly, and unnecessarily, increase the costs of administering the system, since it would essentially require guarantors to idle, or at least inefficiently invest, some of their capital. It would also add further administrative costs to the system. Together, these costs would lead to a totally unnecessary increase in premium rates without strengthening the system.

Argument: Lloyd's of London is a poor model on which to base cross-guarantees because it faces financial problems.

Response: While the cross-guarantee system has some common elements with Lloyd's and the experiences at Lloyd's have guided the development of the cross-guarantee bill, the cross-guarantee system is not modeled on Lloyd's framework. What is similar between cross-guarantees and Lloyd's is that risks are underwritten by syndicates which feature several and unlimited liability for the risks. But there also are many differences.

First, under cross-guarantees, the unlimited liability is in the system, not for the individual guarantor, or "Name," to use Lloyd's terminology. All guarantors pass through to their guarantors losses over five times their annual premium income. This "stop-loss provision" of the cross-guarantee bill ensures that catastrophic losses are spread over a large number of guarantors.

Second, the cross-guarantee system avoids the conflicts of interests that have plagued Lloyd's. Under the bill, no syndicate agent can be either a guaranteed party or a guarantor. Similar restrictions do not exist at Lloyd's, leading to conflicts of interest between "external Names" (outside investors) and some of the insiders who were both "Names" themselves also underwrote and managed the affairs of "external Names."

Third, under the cross-guarantee system, each guarantor must itself be a guaranteed party under a separate contract. This requirement ensures that should any guarantor be unable to fulfill its obligations, the next layer of guarantors is then obligated to perform.

With respect to Lloyd's itself, though, one final point must be noted. Although Lloyd's has suffered financial difficulties, they are with respect to losses of the Names, not that Lloyd's has failed to meet any claim that it insured. Lloyd's still provides an insured with the assurance that it will get paid, and, in that sense, Lloyd's is a model to emulate.

Argument: Bank insolvency is not an insurable risk.

Response: Insurance companies have traditionally made this argument when asked why they do not want to become private deposit insurers. Their basic fear is that bank failures are not independent of each other and that a glut of failures would lead to catastrophic losses for the insurer.

Cross-guarantees address these concerns in several ways. First, the system avoids catastrophic losses through its stop-loss limits. Hence, an insurance company or any other guarantor has a cap on its losses as a guarantor. Being a guarantor will not bankrupt a guarantor.

Second, bank failures tend not to be overly cyclical. Viewed historically, bank failures show little correlation with the overall business cycle. What bank failures are correlated with are asset deflations, either in the economy as a whole or in sectors of the economy. (This argument puts aside the case of the thrift industry, whose inherent structural flaws, specifically maturity mismatching, raise different issues that cross-guarantees overcome.) Hence, banks failed during the deflation in the economy during the 1930s, during the deflation in the farm and energy sectors in the early 1980s, and during the recent collapse in commercial real estate prices.

Cross-guarantee premiums can price against the risk of asset deflation. Sectoral deflations in particular tend to follow some boom period, or "bubble," in which prices deviate from long-term historical trends. In essence, risk-based premiums could increase premium rates for any bank or thrift which lends to an industry or locality going through a boom. In so doing, cross-guarantees would not only lower risks to guarantors, but also reduce the injections of credit that feed such booms. The result should be a dampening, if not the elimination, of such sectoral boom-bust cycles.

Argument: The cross-guarantee system is too complicated and will be too expensive to administer.

Response: While cross-guarantees are not simple, one should judge or compare their complexity to the current system. Are cross-guarantees more complicated than current banking laws and regulations or would they be more expensive than the high deposit insurance premiums and regulatory costs currently being paid? Not likely.

No doubt, in the initial years, some growing pains will take place as participants move down the learning curve. But over time the system will quickly become fairly routine. Standard, boilerplate contract language will evolve to handle the majority of cases. Contracts themselves would likely last three to five years, meaning that parties would not necessarily be in a constant process of negotiating contracts.

Cross-guarantees would also provide guaranteed institutions with much greater flexibility than the current system, greatly lowering the cost burdens they now face. By protecting all deposits, cross-guarantees would eliminate liquidity risk, greatly alleviating a historical concern of banks and thrifts. Cross-guarantees also will help institutions better understand their own financial risks.

Argument: The cross-guarantee system is too dependent on the courts to enforce contracts.

Response: The court system is hardly perfect. But there is no reason to believe that its performance would be any worse than the regulators' performance over the past decade. In fact, the courts should do much better.

Indeed, markets analogous to cross-guarantees already operate that depend on courts for contract enforcement, such as surety contracts, letters of credit, and loan syndications. No evidence exists that courts do not reliably enforce contracts in these markets.

What dangers exist? A court might refuse to enforce a guarantor's obligation to pay depositors at a failed bank. That would certainly lead to runs and a general calamity. But why would a court ever refuse to enforce a cross-guarantee contract? Ultimately, this type of argument says that courts are totally unreliable, which if true also undercuts the case for the current regulatory system since it also relies on the courts for its authority to uphold actions. In fact, the reality is that courts will likely bend over backwards to ensure that depositors get their money back.

The real danger is that courts might try to rewrite contracts they do not think are "fair" or to impose additional duties upon guarantors. While this is a legitimate danger, the bill works to alleviate such concerns. Recording all contracts in the Central Electronic Repository and requiring that the recorded contract be the sole evidence of the contract limits the scope of a court's ability to rewrite contracts based on supposed oral modifications or other considerations. In most cases, disputes also will not include the type of "innocent" or "unsophisticated" party that tends to appear in any case where a court makes an irrational ruling. Finally, the bill forbids courts from imposing tort-like legal obligations upon guarantors for the actions of guaranteed banks and thrifts.

Argument: The cross-guarantee system should not mandate that depository institutions obtain a cross-guarantee contract.

Response: This argument has two different branches. Some argue that depository institutions should have the option of retaining FDIC insurance. But if depository institutions can continue to operate under the status quo, taxpayers will continue to be unduly exposed to losses due to the failure of FDIC-insured banks and thrifts. This problem would be exacerbated by an adverse selection problem, as only the weak institutions will seek to remain under government deposit insurance, meaning that the government would continue to directly insure just those types of institutions whose failures have proven so costly. The danger also exists that the government would try to tax guaranteed institutions to pay for the FDIC's inevitable losses, potentially threatening the lower deposit insurance premiums that cross-guarantees offer.

Other argue that depository institutions should be allowed to operate uninsured. However, because the cross-guarantee monitoring process will be faster and more efficient than the marketplace in identifying weak institutions, only weak institutions will opt to go uninsured. Uninsured institutions therefore likely will lead both to losses for depositors and systemic runs. Both types of events

would negatively affect guaranteed institutions and possibly taxpayers. Any losses to depositors will immediately create a wave of sympathy stories that would compel politicians to bail them out. Cross-guaranteed institutions would be the most likely candidates to pay for such a bailout. At the same time, politicians may feel compelled to more closely regulate all depository institutions, even though only guaranteed institutions would have been a fault.

Unsophisticated depositors will also likely have trouble in a time of crisis in distinguishing uninsured institutions from those protected by cross-guarantees. Hence, guaranteed institutions would feel a negative spillover effect from problems among uninsured banks and thrifts.

Argument: Deposits over $100,000 should not be guaranteed, because then cross-guarantees fail to punish depositors who put their money in banks and thrifts that fail.

Response: Cross-guarantees can hardly be faulted for failing to "punish" depositors when they are rarely punished today. While some small banks are liquidated in such a way that an uninsured depositor takes a loss, usually takes place in a discriminatory way. Uninsured depositors should not take a loss at one failed institution when similar uninsured depositors at other failed institutions do not—yet it frequently happens, increasingly at smaller institutions. At the same time, most sophisticated depositors have long since left a failed institution liquidated by the FDIC, leaving the less sophisticated uninsured depositors to suffer a loss.

In any case, it is not clear why we should seek to "punish" depositors. Most depositors are relatively unsophisticated investors not culpable for the failure of an institution. Even a sophisticated depositor is not culpable since it is a creditor of the bank, not a shareholder. To suggest that depositors should become "sophisticated" and undertake a much greater monitoring burden, as some believe they should, is an incredibly inefficient notion, since it makes little sense for thousands of depositors to invest enormous time in largely duplicate efforts to monitor institutions based on the same types of data that even regulators frequently misread. By contrast, cross-guarantees rely on one monitor with access to inside information, the syndicate agent, to perform this function, a much more efficient and effective way to monitor.

Punishing depositors also will lead to costly runs. If depositors are put at risk, they will simply run at the first sign of trouble, real or imagined, leading to costly losses for the institution and the economic system. It is a mystery why advocates of "depositor discipline" seek runs as the optimal method of closing banks and thrifts, when the main purpose of bankruptcy laws for nonbanking firms is to restructure firms in a way that avoids runs.

Argument: Letting bank managers risk the bank's capital as guarantors is too risky.

Response: The risk diversification requirements under the cross-guarantee system protect against banks taking too much risk as guarantors. Under the bill, a guarantor cannot be at risk for more than 12 percent of its capital in any one year in its activities as a guarantor. That is less than a year's earnings for most guarantors, which means a guarantor's annual losses from being a guarantor should be no more than what it otherwise earns during that year.

In any case, any fears about the risks of being a guarantor are exaggerated. A guarantor will face no more risk than a bank does from the many types of loans and investments it makes. In particular, banks already lend to each other in the Federal Funds market, and such lending creates greater risks because a bank can lend more to another bank in the federal funds market than the risk it can assume as a guarantor. Additionally, such lending is probably more risky than being a guarantor in that with cross-guarantees a bank will have a syndicate agent with "inside knowledge" of the health of the guaranteed party.

Banks also present some advantages as guarantors. One of the functions of guarantors will be to provide emergency liquidity should a guaranteed party need it. Banks will be the ideal type of guarantor to fulfill this function. Banks may also have more informed industry knowledge of the risks presented by particular institutions. And, by having banks both as guaranteed parties and guarantors, it is more likely that the contracts that evolve will evenly reflect the interests of both sides to the contract. For all these reasons, having banks as guarantors is desirable.

Argument: It is too dangerous to allow unsophisticated college endowment funds and pension funds to be guarantors.

Response: The cross-guarantee system restricts participation in the system by such funds to those with more than $100 million in net worth. Such endowment and pension funds already are among the more sophisticated players in financial markets. Indeed, they are more like the sharks of the financial system than the fish prepared to be eaten.

In any case, the risks of being a guarantor are no different from many of the risks already taken by such funds. It makes little sense to restrict their risk-taking in this area, when they are not so restricted in comparable areas.

Argument: No one will want to be a guarantor because it is too risky, making it hard for banks and thrifts to obtain contracts.

Response: The authors of this bill have received unsolicited calls from companies who have heard of the concept and are interested in being guarantors. These callers must think they would make money as guarantors. Indeed, trillions of dollars in equity capital exists worldwide among potential guarantors, all of which only needs to underwrite contracts generating about $1.2 billion in annual premium income. The potential supply of guarantors will likely swamp the risks to be underwritten.

Being a guarantor should prove a particularly profitable endeavor, because it allows a company to get "double duty" from its capital, specifically enhancing the yield of its liquid assets. In other words, the capital standing behind a guarantee will not only earn cross-guarantee premium income, but it also will remain on the guarantor's balance sheet earning its normal return.

Some may fear that being a guarantor exposes a company to catastrophic losses. But the stop-loss limit of the cross-guarantee bill addresses such concerns, by limiting a guarantor's annual losses to five times its annual premium income. A guarantor will not be able to "bet the house" when it underwrites a share of the risks under one or more cross-guarantee or stop-loss contracts. In general, the five times limit, by setting a maximum loss, greatly reduces the uncertainty of underwriting cross-guarantee risks.

Argument: Too many companies will want to be guarantors, leading to overcapacity and premium rates that are too low. Underpriced guarantees, in turn, will lead to excessive risk-taking by depository institutions.

Response: Companies will seek to be guarantors only if they can make a profit. If premium rates are too low, or premiums are spread too thinly, guarantors will not make a profit and will begin to exit the industry. One of the features of the cross-guarantee system (unlike most insurance systems) is that it allows guarantors relatively easy entry and exit so that capital can flow in and out of the business to meet the needs of the system. That should prevent something akin to the property and casualty insurance cycle from developing.

As a result, underpricing seems unlikely. But even if underpricing occurs, the guarantors themselves will pay the price by incurring losses, not taxpayers. People will make mistakes and pay for it. That cannot be avoided and, in fact, that is how markets learn. Such losses also serve the useful function of putting more responsibility on those guarantors who can best price risks. Guarantors which take losses may find their own guarantors unwilling to continue to underwrite their decisions as a guarantor. Compare that to federal deposit insurance, where no matter how many mistakes the government makes, it continues as the insurer under the system.

Would premium rates that are "too low," should they occur, encourage risk-taking by guaranteed parties? Not really. The premiums would still use risk-based pricing, which would still discourage risk-taking. What would simply happen is that guarantors as a whole would not charge sufficient premiums to cover the overall risks they take. Guarantors would then suffer a loss, which is as it should be.

Argument: Guarantors will let guaranteed institutions do reckless things, bankrupting the system.

Response: What guarantor would guarantee a reckless guaranteed party? If a guaranteed institution's direct guarantors allow it to be reckless, it will be the guarantors themselves who suffer the loss from such activities. Guarantors will seek profits, not losses.

Even if guarantors do not intend to allow reckless activity theoretically they could allow it unintentionally through sheer incompetence. But two forces will tend to prevent this from happening. First, a guarantor's guarantors would likely restrict the cross-guarantee activity of any company that has not shown an ability to handle the role of guarantor. Second, a syndicate is made up of many guarantors, and therefore any one incompetent guarantor would not control the decision making for the entire syndicate. For incompetence to rule, one must hypothesize many incompetent guarantors joining one syndicate.

Even if such a syndicate arose, any losses that take place would not threaten the system. The stop-loss limit ensures that any large loss will get shared among many participants. No one incompetent syndicate can bankrupt the system; indeed, with the stop-loss limits, the syndicate members could not even bankrupt themselves.

Finally, in the extremely unlikely situation where some "renegade" syndicate allows a guaranteed institution to become deeply insolvent, the FDIC is empowered to appoint a conservator or receiver once the value of the assets of the guaranteed institution shrink to a point at which they only slightly exceed the amount of federally insured deposits in that institution. This power serves as the ultimate brake on overly tolerant guarantors.

Argument: Guaranteed banks and thrifts will be too conservative because they are beholden to their guarantors.

Response: Like any creditor, guarantors are likely to be fairly risk-averse. These instincts should serve the useful functions of forcing guaranteed institutions to commit to wiser lending policies and proper pricing for loans. After a decade that saw much reckless lending, such a change would be for the better.

Nevertheless, some worry that guarantors may force banks to be too conservative. Although this argument is not totally implausible, a few points are worth noting. First, guarantors could hardly be more strict than regulators currently are—in an overreaction to the excesses of the 1980s, regulators have caused a credit crunch by making banks excessively fearful of taking normal banking risks. Guarantors are much more likely to find the proper balance between tolerating risks and moderating excesses than regulators overreacting to past failures.

Second, the cross-guarantee marketplace will be quite competitive. Guarantors must compete to become a party to any particular contract. This competition will prevent syndicates from imposing "take it or leave it" type conditions upon the guaranteed institution.

Third, bank and thrift managers have fiduciary duties to their shareholders, and shareholders have different interests than those of guarantors. As a result, managers will play the same balancing game between maximizing the value of the firm by addressing the needs of creditors and shareholders that they do in any firm. Guarantors' risk averseness will no more control the byproduct of these tensions than do the creditors' risk averseness for any firm.

Fourth, banks and thrifts will play both the role of guaranteed party and guarantor in the cross-guarantee marketplace. This dual role should help ensure that the "boilerplate" language which evolves as part of cross-guarantee contracts reflects a balanced approach.

Argument: Some bankers may not be able to obtain cross-guarantee contracts.

Response: No doubt true. But that is one of the virtures of the cross-guarantee system, not a vice. A bank or thrift which cannot obtain a cross-guarantee contract is an institution which could not find, among all the potential guarantors in the system, a syndicate willing to underwrite its risks. In essence, the marketplace has voted and said that such an institution is in irreparable financial trouble and should be closed.

Attempting to prevent such closures would be the equivalent of practicing the type of forbearance towards thrifts used in the 1980s that proved so costly to taxpayers. If the government allowed institutions which could not obtain a contract to continue to operate with federal deposit insurance, only the "losers" would remain federally insured, potentially costing the taxpayers enormous sums.

The cross-guarantee system provides a considerable transition period for banks and thrifts to obtain a contract, up to nine and one-half years for smaller institutions. Plenty of time will therefore exist for those institutions to obtain a contract whose balance sheet justifies one.

The vast majority of banks and thrifts are strong, health institutions getting healthier by the day. They will experience no difficulty obtaining cross-guarantee contracts. Even those that cannot obtain one have a couple of choices other than an FDIC takeover. They can recapitalize, making themselves attractive to potential guarantors. Or, they can sell the institution to a stronger bank or thrift that is able to obtain a contract. For this reason, the FDIC will likely take over few institutions as transition deadlines pass.

Argument: The cross-guarantee system would favor large banks over small banks, leading to excessive concentration in the banking industry.

Response: In fact, small banks probably will be the biggest winners from the cross-guarantee system. Cross-guarantees would eliminate the "too-big-to-fail" discrepancy by guaranteeing all deposits no matter how large the deposit. That would allow smaller banks to compete on more even terms for large deposits.

Small banks also would in general enjoy a lower cost of funds. Cross-guarantees would make any obligation of such a bank essentially risk-free from the perspective of a creditor, making it easier for creditors that did not know of the bank to put their funds in the institution. In essence, small banks of which little is known and large banks of which a lot is known would compete on equal terms for funding, since each is protected by the cross-guarantee system.

Small banks also would enjoy relatively larger gains from the regulatory relief provided by the cross-guarantee system. Regulations are more costly for small banks because of economies of scale in complying with them.

Cross-guarantees would also make it easier for smaller institutions to specialize. Regulation tends toward a "one size must fit all" mentality, which hampers smaller institutions that seek to follow a more specialized strategy. By tailoring their cross-guarantee contract to fit their unique circumstances, smaller banks will be better positioned to compete for business free of regulatory restraints.

Argument: "Equity market intervention" will not work for small or closely held banks.

Response: Equity market intervention refers to the fact that when premium rates rise as an institution's capital shrinks relative to its risks, strong financial incentives (particularly the prospect of lower premium rates) are created to recapitalize. In essence, shareholders will make money from recapitalizing such institutions. The question is, would the same process work when publicly traded shares do not exist?

Yes. The exact workings of the process may differ, but the incentives are the same. As premium rates rise for the typical small, closely held bank, the small group of owners have an "arbitrage opportunity" to increase the overall value of their ownership claim in the same way that stockholders holding publicly traded shares would.

Of course, options such as hostile takeovers or proxy fights would not exist to force re-capitalization. But, then again, where ownership and control are not separated, the managers will likely react more quickly to the opportunity created for owners. In other words, one does not need hostile takeovers or proxy fights to force managers to do what is in the best interest of the owners, because the managers *are* the owners. The same logic would hold true in a mutually owned thrift, where managers and directors effectively own the institution.

Argument: Bankers will not want other bankers to know their competitive secrets.

Response: This is a legitimate concern, but it is addressed in the cross-guarantee bill. First, only the syndicate agent will have access to the offices, files, and records of a guaranteed bank or thrift. Syndicate agents will have a legal duty to protect the confidentiality of a guaranteed institution. Such agents also face a loss of business due to a bad reputation should they allow leaks of confidential information to take place. Such agents will probably have to take out errors and omissions insurance to protect themselves from suits arising out of their role as syndicate agents.

Second, a guaranteed party can control which companies become its guarantors. Hence, if one bank does not want another bank being one of its guarantors, it can prevent that from happening. Such vetoes should address some of the apprehension that a banker might otherwise fact from having one of its competitors as one of its guarantors.

The fact that cross-guarantee contracts will be "public knowledge" in the Central Electronic Repository presents little danger. The type of information in contracts will contain little, if any, of the information that bankers want to keep from their competitors. The financial information used to calculate premiums is not part of the pricing formula, but rather is the data entered into the formula to determine the premium. Moreover, the concerns of banks and thrifts about competitive secrets focus largely on such things as new marketing strategies and customer lists, which will not be part of any cross-guarantee contract.

Argument: The cross-guarantee system will provide bankers with an opportunity to collude.

Response: Under the cross-guarantee system, the antitrust laws will still apply. Therefore, collusion will be as punishable under the system as it is now.

The syndicates themselves are too large to form the basis of a collusive scheme. The typical large bank (more than $10 billion in assets) would have at least 100 guarantors, far too many to keep the collusion secret or to allow any collusion to prove effective. Moreover, almost all syndications will take place over computer networks, not in face-to-face meetings between bankers. Hence, the cross-guarantee system would actually provide few opportunities for collusion.

In any case, it is not clear how cross-guarantees would give bankers any opportunity to collude that they do not already have. Many current activities provide bankers with more face-to-face meetings than cross-guarantees would. Bankers participate in loan syndications, have correspondent relationships, play golf together, and meet together at banking conventions. If the goal is to prevent bankers from colluding, the cross-guarantee system is hardly the place to start.

Argument: Guaranteed banks and thrifts should be forbidden from lending to any of their guarantors.

Response: It is not clear why any such loans should be forbidden. The only danger that exists is that a guaranteed institution might give some "sweetheart deal" on a loan to a particular guarantor in exchange for some type of favorable treatment. But the syndicate as a whole would not approve of such a transaction. In other words, why would the direct guarantors collectively agree to allow a guaranteed party to make a sweetheart deal to one guarantor that would impair the net worth of the institution they guarantee?

Suppose instead the sweetheart deal is secret. In this situation, how would the guarantor be able to provide the guaranteed party with some advantage? All decisions of the syndicate are made by a vote of the members, and therefore an individual guar-

antor could not force upon the syndicate a decision not in the best interest of the syndicate.

Given that no apparent danger exists, there is no reason to restrict a guarantor's access to borrowing from a guaranteed party. If any problems do arise, the syndicate can restrict such lending in the contract.

Argument: The Federal Reserve should not lend to guaranteed institutions that it does not monitor.

Response: Any Federal Reserve loan to a guaranteed institution is guaranteed under the system. Hence, any Federal Reserve loan is backed by the equity capital standing behind the system, making it essentially a risk-free loan. As a result, the Federal Reserve does not need any collateral nor does it need to assess whether the borrower is creditworthy. Indeed, loans to a guaranteed institution are probably safer than holdings of Treasury bonds which depend on the tax collecting power of our increasingly indebted federal government.

In all likelihood, borrowings from the Federal Reserve should prove rare, as guarantors will have an incentive to provide any emergency liquidity needed. Nevertheless, the Federal Reserve is left as a source of emergency liquidity under the system should for any reason guarantors not be able or are unwilling to provide such liquidity.

Argument: The government will lose power to allocate credit within economy. In particular, the housing industry will be hurt.

Response: Under cross-guarantees, the government will lose some of its power to allocate credit, at least directly through the banking and thrift industries. But that should not form a basis for criticizing cross-guarantees. The government should not decide who gets to borrow and who does not, as political favoritism would then determine who gets funding.

Some may argue, what about the housing finance? Shouldn't the government give preferences, for housing lending? Although cross-guarantees would eliminate preferences, such as those provided under risk-based capital standards, overall cross-guarantees would probably lead to a lower cost of funding for housing. Today, because of deposit insurance premium rates and higher overall capital standards, banks and thrifts find it harder and harder to economically hold mortgage portfolios. That helps explain part of the rush to securitize mortgage debt. Under cross-guarantees, banks and thrifts will find it more economical to hold mortgages, which will increase the demand for mortgages as an investment vehicle, lowering interest rates. Banks and thrifts also will be able to continue to originate mortgages for sale in the secondary markets.

Argument: Cross-guarantees would be unfair to thousands of honest, hard-working bank and thrift examiners.

Response: The cross-guarantee bill provides examiners with an attractive severance package. This package should compensate these government workers for any disruption to their careers. In any case, many will no doubt find employment as syndicate agents seek employees with experience in this area.

In any case, many private sector employees face the prospect of job losses when the industry in which they work becomes obsolete. There is no reason to prevent cross-guarantees from becoming law based on concerns about preserving jobs for bank examiners and supervisors.

Argument: Banks have done a poor job serving the economy and therefore do not deserve to escape from banking regulation.

Response: There are several problems with this argument. First, the purpose of regulation is not to "punish." Either regulation serves a purpose or it does not. Under the cross-guarantee system, since most government regulation would no longer be needed and in fact would be counter-productive, unnecessary regulations should be eliminated. The issue has nothing to do with banks "escaping" regulation.

Second, cross-guarantees should not be evaluated on whether or nor they benefit or punish banks or thrifts. Banks and thrifts would no doubt benefit from the cross-guarantee system. But even more important, depositors, borrowers, taxpayers, and the economy would benefit far more.

Third, to say that "banks have done a poor job of serving the economy" is to overgeneralize. Some banks have done a poor job—and they have failed. But most do a good job. Unfortunately, the good banks are the ones that survive to fact the high premium rates and increasing regulatory burden due to the errors of their incompetent brethren. It makes little sense to charge someone with the sins of another. Yet, that is exactly what happens when people seek to "punish" all banks for the failure of a few banks.

CONCLUSION: CROSS-GUARANTEES AND THE ECONOMY

Perhaps the most important benefit of cross-guarantees, their positive effects for the economy, often gets lost among the other issues revolving around the concept. But the effect of deposit insurance reform on the economy would be substantial. The Congressional Budget Office estimated that the thrift crisis cost the economy $500 billion in lost GNP and that in fact may be a low figure.

Cross-guarantees would avoid the excessive lending that adds fuel to sectoral booms in the economy. The economy's slow growth today reflects the effects of asset deflation in many sectors, a deflation that is a byproduct of previous booms in such areas as real estate lending. These booms were caused, in no small part, by reckless lending from banks, thrifts, and life insurers. Since deflation is a bank killer, guarantors will seek to avoid such lending, to the benefit of themselves, banks and thrifts in general, and the economy.

At the same time, cross-guarantees will avoid overreactions, such as the current credit crunch. The regulators, reacting to a Congress afraid of another thrift crisis, have panicked, preventing many loans from being made that should be made. In the cross-guarantee marketplace, panicky guarantors will lose business to guarantors who maintain a steady vision of the shape of the marketplace. Cross-guarantees will therefore avoid the disruption of lending relationships and the dearth of new loans that we see today.

Cross-guarantees will also lead to greater productivity in the financial services industries. This greater productivity will reflect not only the effects of lower regulation, but also the effects of allowing a greater amount of intermediation to take place through depository institutions. Many financial transactions best intermediated through banks and thrifts are being driven to less efficient providers of financial services, because of the various cost burdens imposed upon depository institutions. Cross-guarantees will allow banks and thrifts to begin to win bank market share. As this process takes place, one also will likely see a greater skepticism among guarantors about allowing the banks and thrifts they guarantee to use fancy, new financial products whose complexity is proven, but whose utility is not.

Finally, cross-guarantees will lead to better credit decisions by banks and thrifts. Bad credit decisions waste this country's inadequate savings on dubious investments, as many unused office buildings so vividly demonstrate. In the 1980s, lending that could have increased productivity and economic growth instead often financed projects of dubious merit. Guarantors will insist that the parties they guarantee do better than that.

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H.R. 6069

*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 "Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992."

(b) TABLE OF CONTENTS.—

Sec. 1 Short title; table of contents.
Sec. 2 Findings and purposes.

TITLE I—100 PERCENT CROSS-GUARANTEES

SUBTITLE A—DEFINITIONS

Sec. 101. Definitions.
Sec. 102. Rules of Construction.

SUBTITLE B—CROSS-GUARANTEE PROCESS

Sec. 111. Depository institutions prohibited from operating without a cross-guarantee contract.
Sec. 112. Parties to cross-guarantee and stop-loss contracts.
Sec. 113. Requirements common to cross-guarantee and stop-loss contracts.
Sec. 114. Requirements applicable to cross-guarantee contracts.
Sec. 115. Requirements applicable to stop-loss contracts.
Sec. 116. Eligibility and requirements for direct guarantors.
Sec. 117. Provisions relating to cross-guarantee and stop-loss syndicates.
Sec. 118. Assumption of control of a guaranteed company by a cross-guarantee syndicate.
Sec. 119. Enforcement of contracts.

SUBTITLE C—POWERS AND DUTIES OF THE FDIC

CHAPTER 1—CROSS-GUARANTEE PROCESS

Sec. 121. Regulator of the cross-guarantee process.
Sec. 122. Approval process for cross-guarantee and stop-loss contracts.
Sec. 123. Central electronic repository.
Sec. 124. Restrictions on closed loops.

CHAPTER 2—PROTECTION OF INSURED DEPOSITS

Sec. 126. Syndicate agent reports on guaranteed depository institutions.
Sec. 127. FDIC appointment of conservator or receiver.
Sec. 128. Backup insurance on deposits at guaranteed depository institutions.

SUBTITLE D—MISCELLANEOUS PROVISIONS

Sec. 131. Institutions offering uninsured deposits.
Sec. 132. Cross-guarantee advisory committee.
Sec. 133. Federal Reserve bank lending.
Sec. 134. Advertising of guaranteed depository institutions.

SUBTITLE E—TRANSITION TO 100% CROSS-GUARANTEE PROCESS

Sec. 141. Effective date of system based on minimum number of guaranteed depository institutions and amount of total assets.

Sec. 142. Mandatory phase-in of cross-guarantee after effective date of system.
Sec. 143. Appointment of conservator or receiver for institutions which fail to comply with transition requirements.
Sec. 144. Exit fees.
Sec. 145. Severance pay and related benefits for former State and Federal banking agency employees.
Sec. 146. Abolition of Federal Financial Institutions Examination Council.

TITLE II—AMENDMENTS TO OTHER LAWS

Sec. 201. Amendments relating to national banks.
Sec. 202. Amendments relating to member banks.
Sec. 203. Amendments relating to savings associations.
Sec. 204. Amendments relating to savings and loan holding companies.
Sec. 205. Amendments relating to the Federal Deposit Insurance Corporation.
Sec. 206. Amendments to Title 11, United States Code.
Sec. 207. Amendments to other banking laws.

**SEC. 2. FINDINGS AND PURPOSES.**

The purposes of this Act are:

(1) To create a competitive and essentially self-regulating private deposit insurance marketplace by requiring each bank and savings association which accepts deposits to protect the full amount of deposits held along with most other nondeposit liabilities by obtaining cross-guarantee contracts from syndicates of guarantors.

(2) To induce depository institutions to lend and invest wisely by authorizing guarantors who issue cross-guarantee contracts to—

(A) charge risk-sensitive premiums for the guarantees provided; and

(B) negotiate with the banks and savings association who enter into such contracts all other terms and conditions, to the extent such terms and conditions are not inconsistent with this Act or other provision of law.

(3) To make the cross-guarantee process as self-regulating as possible by establishing a system which has an inviolable "stop-loss" mechanism and numerous constructive tensions among the participants in the system.

(4) To regulate the cross-guarantee marketplace only to the extent necessary to maintain the safety, soundness, and viability of the entire cross-guarantee process and not the solvency of any individual bank or savings association regardless of its size.

## TITLE I—100 PERCENT CROSS-GUARANTEES

### SUBTITLE A—DEFINITIONS

**SEC. 101. DEFINITIONS**

(a) DEFINITIONS RELATING TO DEPOSITORY INSTITUTIONS, NON-DEPOSITORY GUARANTORS, AND AFFILIATES.—For purposes of this title—

(1) COMPANY.—The term "company"

(A) means any corporation, partnership, business trust, association, or similar organization; and

(B) does not include a branch or agency, or a group of branches and agencies, of a foreign bank.

(2) DEPOSITORY INSTITUTION—The term "depository institution" has the meaning given to such term in section 3(c) of the Federal Deposit Insurance Act.

(3) FAILED DEPOSITORY INSTITUTION—The term "failed depository institution" means any depository institution for which a conservator or receiver has been appointed by the Corporation.

(4) FAILED INSURANCE COMPANY—The term "failed insurance company" means any insurance company for which a conservator or receiver has been appointed.

(5) FOREIGN BANK BRANCHES AND AGENCIES—The terms "agency" and "branch", when used in connection with a reference to a foreign bank, and the term "foreign bank" have the meanings given to such terms in section 1(b) of the International Banking Act of 1978.

(6) GUARANTEED BANKING OFFICE—The term "guaranteed banking office" means any branch or agency of a foreign bank which has entered into a cross-guarantee contract with a cross-guarantee syndicate.

(7) GUARANTEED COMPANY.—

(A) IN GENERAL.—The term "guaranteed company" means any company which has entered into a cross-guarantee contract with a cross-guarantee syndicate.

(B) FOREIGN BANKS.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), a foreign bank shall not be a guaranteed company solely because a branch or agency of such bank is a guaranteed banking office under a cross-guarantee contract.

(ii) EXCEPTION FOR FOREIGN BANKS WHICH ARE SUBSIDIARIES.—Notwithstanding clause (i), a foreign bank may be a guaranteed company, if such bank is guaranteed under a cross-guarantee contract under section 112(e)(1).

(8) GUARANTEED DEPOSITORY INSTITUTION.—The term "guaranteed depository institution" means a depository institution which is a guaranteed company.

(9) GUARANTEED FINANCIAL GROUP.—The term "guaranteed financial group" means—

(A) a depository institution which is the sole guaranteed company under a cross-guarantee contract;

(B) 2 or more companies, at least 1 of which is a depository institution and all of which are guaranteed companies under the same cross-guarantee contract; or

(C) any guaranteed banking office which—

(i) is a branch; and

(ii) is the sole guaranteed banking office under a cross-guarantee contract; and

(D) any 2 or more branches and agencies, at least 1 of which is a branch and all of which are guaranteed banking offices under the same cross-guarantee contract.

(10) NONDEPOSITORY GUARANTOR.—The term "nondepository guarantor" means any person which has entered into a stop-loss contract with a stop-loss syndicate.

(11) STATE DEPOSITORY INSTITUTION.—The term "state depository institution" has the meaning given to such term in section 3(c)(5) of the Federal Deposit Insurance Act.

(12) TERMS RELATING TO AFFILIATION AND CONTROL.—

(A) AFFILIATE.—The term "affiliate" means, with respect to any company, any other company that controls, is controlled by, or is under common control with such company.

(B) CONTROL.—The term "control" means, with respect to one company's relationship to another company, one company's ownership or power to, directly or indirectly, vote 5 percent or more of any class of voting securities of another company.

(C) SUBSIDIARY.—The term "subsidiary" means, with respect to any company, any company which such company controls.

(b) DEFINITIONS RELATING TO CROSS-GUARANTEE AND STOP-LOSS CONTRACTS.—For purposes of this title—

(1) CROSS-GUARANTEE CONTRACT.—The term "cross-guarantee contract" means a contract which—

(A) is entered into between—

(i) 1 or more companies, at least 1 of which is a depository institution; and

(ii) a cross-guarantee syndicate; and

(B) is approved by the Corporation under section 122.

(2) CROSS-GUARANTEE OBLIGATION.—The term "cross-guarantee obligation" means an obligation of a direct guarantor arising out of a cross-guarantee or stop-loss contract, and shall include the obligations of such guarantor under section 113(c)(2) and section 127(d)(1)(A).

(3) CROSS-GUARANTEE SYNDICATE.—The term "cross-guarantee syndicate" means any group of direct guarantors which has entered into a cross-guarantee contract with a guaranteed financial group.

(4) DIRECT GUARANTOR.—The term "direct guarantor" means a member of a cross-guarantee or stop-loss syndicate which has entered into a cross-guarantee or stop-loss contract with a guaranteed party.

(5) GROUP CROSS-GUARANTEE SYNDICATE CONTRACT.—The term "group cross-guarantee syndicate contract" means a contract which—

(A) is entered into between 2 or more guaranteed financial groups and a cross-guarantee syndicate; and

(B) is approved by the Corporation under sections 112(c)(2) and 122.

(6) GUARANTEED OBLIGATION.—The term "guaranteed obligation" means an obligation of a guaranteed party on which a cross-guarantee or stop-loss syndicate has unconditionally guaranteed performance, including payment of principal and interest at the promised time of payment.

(7) GUARANTEED PARTY.—The term "guaranteed party" means any guaranteed company, guaranteed banking office, or nondepository guarantor.

(8) PROJECTED ANNUAL PREMIUM.—The term "projected annual premium" means the amount calculated under section 116(d)(2).

(9) PROJECTED ANNUAL PREMIUM CAPACITY.—The term "projected annual premium capacity" means the amount which is equal to—

(A) in the case of a guaranteed company, 3 percent of the equity capital of the guaranteed financial group which is the party guaranteed under the same cross-guarantee contract in which such company is a guaranteed company; or

(B) in the case of a nondepository guarantor, 3 percent of the net worth of the guarantor.

(10) PROJECTED ANNUAL PREMIUM LIMIT.—The term "projected annual premium limit" means the amount which is equal to 3 percent of projected annual premium capacity.

(11) SECOND-TIER GUARANTOR.—The term "second-tier guarantor' means a direct guarantor of one of a guaranteed party's direct guarantors.

(12) STOP-LOSS CONTRACT.—The term "stop-loss contract" means a contract which—

(A) is entered into between a person and a stop-loss syndicate; and

(B) is approved by the Corporation under section 122 of this title.

(13) STOP-LOSS SYNDICATE.—The term "stop-loss syndicate" means any group of direct guarantors which has entered into a stop-loss contract with a nondepository guarantor.

(14) SYNDICATE AGENT.—The term "syndicate agent" means any person who acts as agent for the direct guarantors under any cross-guarantee or stop-loss contract.

(c) DEFINITIONS RELATING TO FINANCIAL TERMS.—For purposes of this title—

(1) EQUITY CAPITAL.—The term "equity capital" means, with respect to any guaranteed financial group, the amount, as valued pursuant to section 114(c), which is equal to—

(A) the consolidated assets of the guaranteed financial group; minus

(B) the consolidated liabilities, including the estimated liquidation value of contingent liabilities, of the guaranteed financial group.

(2) FDIC ASSET VALUE.—The term "FDIC asset value" means the total value, as determined on a consolidated basis and in accordance with section 126(b), of all tangible and intangible property of—

(A) in the case of a guaranteed financial group described in subparagraph (C) or (D) of section 101(a)(9), all guaranteed banking offices guaranteed under the cross-guarantee contract; or

(B) in the case of all other guaranteed financial groups, all guaranteed companies guaranteed under the cross-guarantee contract.

(3) NET WORTH.—The term "net worth"—

(A) means, with respect to a nondepository guarantor, the amount which is equal to the stockholders' equity, the partnership equity, the net worth, or the fund balance of the guarantor, as the case may be, as determined in accordance with generally accepted accounting principles;

(B) does not include any equitable interest or liability which the Corporation determines should not be treated as net worth for purposes of this title; and

(C) in the case of any nondepository guarantor which controls another nondepository guarantor or a guaranteed financial group, does not include the net worth or equity capital of the subsidiary guarantor or group.

(4) PREMIUM INCOME.—The term "premium income" means any income accrued by a direct guarantor under any cross-guarantee or stop-loss contract.

(5) SUBORDINATED DEBT.—

(A) IN GENERAL.—The term "subordinated debt" means any obligation assumed by a guaranteed company or guaranteed banking office which is subordinate in right and payment to any general creditor of the company or office.

(B) GENERAL CREDITORS.—The term "general creditors" includes—

(i) any creditor to which a guaranteed company or guaranteed banking office has an obligation which is a guaranteed obligation under the cross-guarantee contract for such company or office, unless that creditor is otherwise specifically secured by one or more assets of the company or office; and

(ii) any creditor of the guaranteed company or guaranteed banking office who—

(I) is not protected under the contract; and

(II) is not subject to preference or subordination in a receivership or bankruptcy proceeding.

(6) UNENCUMBERED LIQUID ASSETS.—The term "unencumbered liquid assets" means, with respect to any nondepository guarantor, the amount which is equal to the sum of—

(A) the total amount of cash held by the guarantor;

(B) the total amount of deposit for the benefit of the guarantor in any transaction account at any guaranteed financial group or in any Federal Reserve bank, including amounts passed through any Federal home loan bank or depository institution to a Federal Reserve bank pursuant to the Federal Reserve Act;

(C) an amount equal to 95 percent of the total market value of investment-grade debt securities which are held by or for the benefit of the guarantor and which mature in less than 5 years; and

(D) an amount equal to 80 percent of the total market value of equity securities which are held by or for the benefit of the guarantor,

to the extent any such amount is not pledged, restricted, or otherwise encumbered.

(d) DEFINITIONS RELATING TO FUNDS.—For purposes of this title—

(1) CROSS-GUARANTEE BACKUP FUND.—The term "cross-guarantee backup fund" means the fund established pursuant to section 128(a).

(2) DEPOSIT.—The term "deposit" has the meaning given to such term in section 3(l) of the Federal Deposit Insurance Act, except that such term does not include any obligation which, under section 114(a)(2), may not be a guaranteed obligation.

(3) FDIC SEVERANCE FUND.—The term "FDIC severance fund" means the fund established under section 145(d)(1) and administered by the Corporation for the purpose of providing severance pay and related benefits for employees of Federal or State agencies engaged in the regulation of depository institutions as of the date of the enactment of this Act.

(4) INSURED DEPOSIT.—The term "insured deposit" means any deposit of a guaranteed depository institution which is insured against loss by the cross-guarantee backup fund under section 128.

(e) DEFINITIONS OF OTHER TERMS.—For purposes of this title—

(1) BUSINESS DAY.—The term "business day" means any day other than a Saturday, Sunday, or legal holiday for the federal government.

(2) CENTRAL ELECTRONIC REPOSITORY.—The term "central electronic repository" means the repository established pursuant to section 123(a)(1).

(3) CLOSED LOOP.—The term "closed loop" means a set of cross-guarantee and stop-loss contracts in which any person which is a direct guarantor under any contract which is part of such set of contracts, and any person which is directly or indirectly liable for a guaranteed obligation of any such direct guarantor, are persons which are guaranteed under a cross-guarantee or stop-loss contract which is part of such set of contracts.

(4) CORPORATION.—The term "Corporation" means the Federal Deposit Insurance Corporation.

(5) CROSS-GUARANTEE ACTIVATION DATE.—The term "cross-guarantee activation date" means the date on which the first cross-guarantee contracts become effective under section 141(a).

**SEC. 102. RULES OF CONSTRUCTION.**

In this title—

(1) the terms "guaranteed company," "guaranteed depository institution," "guaranteed party," and "nondepository guarantor" refer to a party in such party's capacity as a party guaranteed under a cross-guarantee or stop-loss contract.

(2) the term "direct guarantor" refers to a party in such party's capacity as a guarantor under a cross-guarantee or stop-loss contract.

(3) the use of the word "control" in such phrases as "assumption of control" or "assumes control" shall not take on the meaning given the word control under section 101(a)12)(B).

SUBTITLE B—CROSS GUARANTEE PROCESS

**SEC. 111. DEPOSITORY INSTITUTIONS PROHIBITED FROM OPERATING WITHOUT A CROSS-GUARANTEE CONTRACT.**

After the applicable effective date under section 142, a depository institution shall be a guaranteed depository institution or guaranteed banking office unless the depository institution—

(a) is a federal branch that is not an insured branch (as the terms "federal branch" and "insured branch" are defined in sections 3(r) and 3(s) of the Federal Deposit Insurance Act);

(b) is a failed depository institution; or

(c) has not yet had a conservator or receiver appointed by the Corporation under section 143.

**SEC. 112. PARTIES TO CROSS-GUARANTEE AND STOP-LOSS CONTRACTS.**

(a) CROSS-GUARANTEE CONTRACTS.—

(1) IN GENERAL.—Each cross-guarantee contract shall have at least the following parties:

(A) A guaranteed financial group as the party guaranteed under the contract.

(B) The direct guarantors of the guaranteed financial group.

(C) A syndicate agent acting on behalf of the direct guarantors.

(2) AFFILIATE GUARANTEE.—Any affiliate of a depository institution may guarantee the performance of such institution's guaranteed obligations under a cross-guarantee contract.

(b) STOP-LOSS CONTRACTS.—

(1) IN GENERAL.—Each stop-loss contract shall have at least the following parties:

(A) A nondepository guarantor as the party guaranteed under the contract.

(B) The direct guarantors of the nondepository guarantor.

(C) A syndicate agent acting on behalf of the direct guarantors.

(2) AFFILIATE GUARANTEE.—Any affiliate of a nondepository guarantor may guarantee the performance of the guaranteed obligations of such nondepository guarantor.

(c) GROUP CROSS-GUARANTEE SYNDICATE CONTRACTS.—

(1) IN GENERAL.—

(A) POOLING OF RISK.—Subject to the provisions of this subsection, the cross-guarantee contracts of 2 or more guaranteed financial groups may be pooled for syndication.

(B) SEPARATE CONTRACT FOR A SYNDICATE OF POOLED CONTRACTS.—The direct guarantors comprising the cross-guarantee syndicate for a group of cross-guarantee contracts may enter into a separate contract (hereinafter "group cross-guarantee syndicate contract") under which the cross-guaranteed contracts pooled under such contract shall be incorporated by reference.

(C) PROPORTIONAL RISK.—Each direct guarantor under a group cross-guarantee syndicate contract shall have the same proportional rights, privileges, duties, and obligations in each cross-guarantee contract incorporated by reference in the syndicate contract as such guarantor has in the syndicate contract.

(2) APPROVAL OF GROUP CROSS-GUARANTEE SYNDICATE CONTRACT AND ITS POOL OF CROSS-GUARANTEE CONTRACTS.—The Corporation shall approve or reject, as a group, a proposed group cross-guarantee syndicate contract and the cross-guarantee contracts pooled under that contract.

(3) AGGREGATION OF ASSETS FOR PURPOSES OF RISK DIVERSIFICATION.—The assets of all guaranteed parties pooled under a group cross-guarantee syndicate contract shall be aggregated for purposes of applying the risk

diversification requirement established in section 114(b).

(4) NO CROSS LIABILITY OF GUARANTEED PARTIES.—No guaranteed party under any cross-guaranteed contract shall be liable for any portion of the guaranteed obligations of a guaranteed party under any other cross-guarantee contract which is pooled under the same group cross-guarantee syndicate contract.

(5) INDIVIDUAL TERMS AND RATES.—The terms, conditions, and premium rates under each cross-guarantee contract which is pooled under a group cross-guarantee syndicate may differ from the terms, conditions, and premium rates under any other cross-guarantee contract which is pooled under the syndicate contract.

(6) PARTIES TO INDIVIDUAL CROSS-GUARANTEE CONTRACTS RETAIN SAME RIGHTS AND DUTIES.—No right, privilege, duty, or obligation applicable under this title to any party to a cross-guarantee contract shall be affected by the inclusion of the cross-guarantee contract in a pool of contracts covered under a group cross-guarantee syndicate contract.

(7) ADDITIONAL GUARANTEED PARTIES UNDER A GROUP CROSS-GUARANTEE SYNDICATE CONTRACT.—A group cross-guarantee syndicate contract can be amended under section 122 to add a guaranteed financial group or a depository institution with a proposed cross-guarantee contract to the existing syndicate contract if—

(A) the syndicate contract remains in compliance with all of the provisions of this title after the addition of the institution to the syndicate contract; and

(B) the life of the syndicate contract is not extended beyond the original term of any cross-guarantee contract already pooled under the syndicate contract by the addition of the institution.

(8) LIFE OF A GROUP CROSS-GUARANTEE SYNDICATE CONTRACT.—A group cross-guarantee syndicate contract shall continue in force until each guaranteed party which is guaranteed under the syndicate contract has ceased to be a guaranteed party under a cross-guarantee contract which is pooled under the syndicate contract.

(9) LENGTH OF CROSS-GUARANTEE CONTRACT POOLED UNDER A SYNDICATE CONTRACT.—No cross-guarantee contract pooled under a group cross-guarantee syndicate contract shall have a term longer than the remaining term of the syndicate contract.

(10) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a cross-guarantee or stop-loss syndicate from becoming a syndicate under two or more cross-guarantee or stop-loss contracts without including such contracts under a group cross-guarantee syndicate contract.

(d) AFFILIATES AND OTHER PARTIES RELATED TO A DEPOSITORY INSTITUTION WHICH SHALL BE GUARANTEED UNDER 1 CONTRACT.—

(1) IN GENERAL.—Subject to paragraph (4), a guaranteed depository institution shall be guaranteed under the same cross-guarantee contract under which any other affiliated guaranteed depository institution is guaranteed.

(2) CHAIN BANKS.—Subject to paragraph (4), if more than 2/3 of the shares of any depository institution are under common ownership with more than 2/3 of the shares of any other depository institution, such depository institutions shall be guaranteed depository institutions under the same cross-guarantee contract.

(3) DOMESTIC BRANCHES AND AGENCIES OF FOREIGN BANKS.—If any branch of a foreign bank enters into a cross-guarantee contract with a cross-guarantee syndicate, all branches and agencies of such foreign bank shall be guaranteed banking offices under the same cross-guarantee contract.

(4) REGULATIONS.—With respect to any depository institution controlled by more than 1 unaffiliated company, the Corporation shall prescribe regulations determining under which cross-guarantee contract the institution shall be guaranteed depository institution.

(e) SUBSIDIARIES WHICH MAY BE GUARANTEED UNDER 1 CROSS-GUARANTEE CONTRACT.—

(1) IN GENERAL.—Any company controlled by a guaranteed depository institution may be a guaranteed company under the same cross-guarantee contract under which such depository institution is guaranteed.

(2) DEFINITION OF CONTROL.—For purposes of this subsection, the term "control" means, with respect to a guaranteed depository institution's relationship to another company, the guaranteed depository institution's ownership or power to, directly or indirectly, vote more than 50 percent of any class of voting securities of the other company.

(f) PROVISIONS RELATING TO SYNDICATE AGENTS.—

(1) ANTI-AFFILIATION RULES.—A syndicate agent may not—

(A) be an affiliate of any other person who is a party to any cross-guarantee or stop-loss contract; or

(B) acquire or retain any ownership interest in any such person.

(2) NO DEPOSITORY INSTITUTION, FOREIGN BANK, OR NON-DEPOSITORY GUARANTOR MAY BE A SYNDICATE AGENT.—No depository institution, foreign bank, or non-depository guarantor may be a syndicate agent.

(3) NO SYNDICATE AGENT MAY BE A DIRECT GUARANTOR.—No person who is a syndicate agent under any cross-guarantee or stop-loss contract may be, as long as such contract is in effect, a direct guarantor under any cross-guarantee or stop-loss contract.

(4) PROHIBITION ON INTERLOCKS.—No director, officer, employee, or subcontractor of a syndicate agent under any cross-guarantee or stop-loss contract or any director, officer, or employee of such subcontractor may be a director, officer, or employee of any other party to such contract.

**SEC. 113. REQUIREMENTS COMMON TO CROSS-GUARANTEE AND STOP-LOSS CONTRACTS.**

(a) STOP LOSS LIMIT FOR LOSSES OF A GUARANTEED PARTY AS A DIRECT GUARANTOR OF OTHER GUARANTEED PARTIES.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) LEVEL 1 PARTY.—The term "Level 1 party" means a guaranteed party under any cross-guarantee or stop-loss contract.

(B) LEVEL 2 PARTY.—The term "Level 2 party" means a direct guarantor of a Level 1 party.

(C) LEVEL 3 PARTY.—The term "Level 3 party" means a direct guarantor of a Level 2 party.

(D) LOSS.—The term "loss" means the present value, as of the date of a loss event, of the cash outlays required to fulfill a Level 2 party's cross-guarantee obligations to a Level 1 party due to the occurrence of such loss event, using as a discount rate the sum of—

(i) 2 percent; and

(ii) the average annual percentage yield on 3-month bills issued by the Secretary of the Treasury under section 3104(a) of title 31, United States Code, as determined by the Corporation as of the most recent issue date preceding the date of the loss event.

(E) LOSS EVENT.—The term "loss event" means any event described in paragraph (3).

(F) STOP-LOSS LIABILITY.—The term "stop-loss liability" means a debt accrued by a Level 3 party under a cross-guarantee or stop-loss contract due to its obligation to a Level 2 party under paragraph (2).

(G) STOP-LOSS RECOVERY.—The term "stop-loss recovery" means the amount accrued in any calendar month by a Level 2 party due to the obligation of a level 3 party under paragraph (2).

(2) STOP-LOSS OBLIGATION OF DIRECT GUARANTORS.—

(A) STOP-LOSS RECOVERY.—For any 12-calendar month period in which a cross-guarantee or stop-loss contract exists between Level 3 parties and a Level 2 party as of the end of the first calendar month of such period, Level 3 parties shall be obligated to pay to a Level 2 party an amount equal to the total amount of losses accrued by the Level 2 party in such party's capacity as a direct guarantor of Level 1 parties during such 12-calendar month period, minus the sum of—

(i) the greater of—

(I) the amount equal to 5 times the total amount of cross-guarantee and stop-loss premium income accruing to a Level 2 party in such party's capacity as a direct guarantor of Level 1 parties during such 12-calendar month period;

(II) the amount equal to 5 times the total amount of cross-guarantee and stop-loss premium income accruing to the Level 2 party in such party's capacity as a direct guarantor of Level 1 parties during the 12-calendar month period preceding such 12-calendar month period; or

(III) in the case of a calendar month which is among the first 11 calendar months that the Level 2 party has ever been a party guaranteed under a cross-guarantee or stop-loss contract, the amount equal to the average monthly cross-guarantee and stop-loss premium income accruing to the Level 2 party in such party's capacity as a direct guarantor of Level 1 parties since first becoming a party guaranteed under a cross-guarantee or stop-loss contract, multiplied by 60; and

(ii) recoveries accrued under this paragraph by the Level 2 party for each 12-calendar month period ending at the end of each of the first 11 calendar months in such 12-calendar month period.

(B) CARRYOVER FROM PREVIOUS CONTRACTS.—The amounts calculated in subparagraph (A) shall include all losses, premium income, and stop-loss recoveries of the Level 2 party under any cross-guarantee or stop-loss contracts under which the Level 2 party was a party guaranteed during such 12-calendar month period.

(C) MERGER OF TWO OR MORE GUARANTEED PARTIES.—In the case of any Level 2 party which merged with any other party which was a Level 2 party guaranteed under another cross-guarantee or stop-loss contract, the amounts calculated in subparagraph (A) shall include all losses, premium income, and stop-loss recoveries of both of the parties prior to the merger.

(D) OTHER GUARANTEED PARTIES UNDER THE CONTRACT WHICH WERE PREVIOUSLY DIRECT GUARANTORS.—The amounts calculated in subparagraph (A) for the Level 2 party shall include all losses, premium income, and stop-loss recoveries of any other party guaranteed under the same cross-guarantee contract as the Level 2 party, which occurred while such other party was a Level 2 party while guaranteed under the same or another cross-guarantee or stop-loss contract.

(E) TIMING OF STOP-LOSS RECOVERY.—A stop-loss recovery shall be accrued as of the last calendar month of the 12-calendar month period under which the stop-loss recovery was calculated.

(F) ADJUSTMENT FOR CATASTROPHIC LOSSES.—

(i) IN GENERAL.—If, for any calendar month, a closed loop exists in which every guaranteed party guaranteed under a contract in the closed loop accrues a stop-loss recovery for such month, then the calculation of stop-loss recovery for the 12-calendar month period ending in such month for all the contracts in the closed loop shall be adjusted as required under clauses (ii) and (iii).

(ii) ADJUSTMENT.—If, for any calendar month, a closed loop meets the conditions of clause (i), the amounts calculated in subparagraph (A) shall, for the 12-calendar month period in which such calendar month is the last month, be adjusted by increasing from 5 to 6, under clauses (i)(I) and (i)(II) of subparagraph (A), the amount multiplied by the premium income accruing to a Level 2 party and by increasing from 60 to 72, under clause (i)(III) of subparagraph (A), the amount multiplied by the average monthly premium accruing to the Level 2 party.

(iii) FURTHER ADJUSTMENT.—If, after making the adjustments to the calculation of stop-loss recovery under clause (ii), every contract in the closed loop under clause (i) still accrues a stop-loss recovery, the amounts under (i)(I) and (i)(II) shall be increased by one and the amount under (i)(III) shall be increased by twelve, until at least one guaranteed party guaranteed under a contract in such closed loop is not accruing a stop-loss recovery for the calendar month in clause (i).

(3) DETERMINATION OF TIME OF LOSS.—A Level 2 party shall accrue a loss as the direct guarantor of a Level 1 party as of—

(A) the last day of the calendar month in which a Level 1 party accrues a stop-loss recovery; or

(B) the date on which, with respect to a Level 1 party which is a guaranteed company, the earliest of the following events occurs:

(i) A written notice is filed with the Corporation under section 118(b)(2)(A) by the cross-guarantee syndicate of which the Level 2 party is a member that the syndicate has assumed control of the Level 1 party, in accordance with the terms of the cross-guarantee contract.

(ii) A transaction which—

(I) involves the acquisition of the Level 1 party or a significant portion of the party's assets, the merger of the Level 1 party with any other party, the liquidation of the Level 1 party, or any other transaction involving a significant portion of the assets or liabilities of the Level 1 party; and

(II) results directly in a loss for which the Level 2 parties are liable under the cross-guarantee contract.

(iii) The Level 1 party becomes a debtor in a case under title 11, United States Code.

(iv) The Corporation appoints a conservator or receiver for the Level 1 party.

(4) PREPARATION OF ORIGINAL LOSS ESTIMATE BY SYNDICATE AGENT.—The syndicate agent for the cross-guarantee contract under which a Level 2 party is a direct guarantor shall, whenever a loss event under subparagraph (3)(B) occurs under such contract—

(A) estimate the loss for such loss event; and

(B) by the 15th day of the calendar month following the calendar month in which such loss event occurs, notify the central electronic repository of the estimate of the loss under subparagraph (A).

(5) REVISION OF LOSS ESTIMATE BY SYNDICATE AGENT.—The syndicate agent for the cross-guarantee contract under which the Level 2 party is a direct guarantor shall, whenever a loss event under subparagraph (3)(B) occurs under such contract—

(A) revise the original estimate of the loss for such loss event and notify the central electronic repository of such revised estimate at least as often as the 15th day of—

(i) the third calendar month following the calendar month in which the loss event took place;

(ii) the twelfth calendar month following the calendar month in which the loss event took place; and

(iii) every twelfth month after the calendar month in clause (ii); and

(B) for each estimate of the loss described in clauses (A)(ii) and (A)(iii), obtain from a third party a confirmation of the reasonableness of the revised estimate of the loss.

(6) COMPLETION OF CASH OUTLAYS BECOMES FINAL AMOUNT.—Notwithstanding paragraph (5), once the Level 2 parties have made the final cash disbursement to fulfill such parties' cross-guarantee obligations due to any loss event under subparagraph (3)(B).—

(A) the syndicate agent for the cross-guarantee contract under which the Level 2 parties are direct guarantors shall calculate the loss from such loss event (subject to the third party confirmation in subparagraph (5)(B)) and notify the central electronic repository of this calculation; and

(B) no further revisions of the loss from such loss event need take place.

(7) DUTIES OF CENTRAL ELECTRONIC DEPOSITORY.—

(A) CALCULATION OF STOP-LOSS LIABILITY.—After notification under paragraphs (4), (5), and (6), the central electronic repository shall calculate the stop-loss recovery for every Level 2 party for every 12-month calendar period affected by the estimate, revised estimates, and final loss amounts of which the repository was notified.

(B) NOTIFICATION OF PARTIES.—Within five business days after receiving notification under paragraphs (4), (5), and (6), the central electronic repository shall notify any Level 2 party or Level 3 party of the results of the calculation under subparagraph (A).

(8) STOP-LOSS PAYMENTS.—

(A) ORIGINAL ESTIMATE.—If a determination under subparagraph (7)(A) is based on the original estimate of loss under paragraph (4) and results in a stop-loss recovery for the Level 2 party, each Level 3 party within three business days after notification under subparagraph (7)(B), shall pay to the Level 2 party the amount of the stop-loss liability for such Level 3 party plus interest on the amount of such liability from the last day of the month in which the loss occurred to the date of payment under this subparagraph.

(B) REVISION OF ESTIMATES.—If a determination under subparagraph (7)(A) results in—

(i) an increase from the previous estimate of the stop-loss recovery for a particular month, then each Level 3 party, upon notification under subparagraph (7)(B), shall within three business days pay to the Level 2 party the amount of the increase in the Level 3 party's stop-loss liability plus interest on the amount of the increase in such liability from the last day of such month until payment is made under this clause; or

(ii) a decrease from the previous estimate of the stop-loss recovery for a particular month, then the Level 2 party, upon notification under subparagraph (7)(B), shall within these business days pay each Level 3 party the amount of the decrease in such Level 3 party's stop-loss liability plus interest on the amount of the decrease in such liability from the last day of such month until payment is made under this clause.

(C) INTEREST RATE.—The parties to any cross-guarantee or stop-loss contract shall agree to the interest rate to be used for the calculation of interest under subparagraph (A) and (B).

(b) DIRECT GUARANTOR'S CROSS-GUARANTEE OBLIGATIONS UNDER THE CONTRACT ARE INDEPENDENT FROM OTHER PARTIES' OBLIGATIONS.—The cross-guarantee obligations of a direct guarantor under any cross-guarantee or stop-loss contract shall be independent of any obligation of any other party under the contract.

(c) EFFECT OF BANKRUPTCY PROCEEDING ON OBLIGATION OF GUARANTOR.—

(1) OBLIGATIONS NOT SUBJECT TO DISCHARGE.—Notwithstnding any provision of title II, United States Code, the Federal Deposit Insurance Act, or any other provision of Federal or State law, the cross-guarantee obligations arising out of any cross-guarantee or stop-loss contract entered into by a direct guarantor prior to such guarantor becoming a failed depository institution or a failed insurance company, may not be stayed, repudiated, or discharged under such title or, in the case of the failed depository institution or failed insurance company, stayed, repudiated, or discharged by any receiver or conservator appointed for such institution or company or by operation of law, to the extent that such guarantor is entitled to accrue premium income under such contracts after becoming a debtor or a failed institution or company.

(2) OBLIGATION OF SECOND-TIER GUARANTORS.—If a cross-guarantee obligation of any direct guarantor described in paragraph (1) is stayed, repudiated, or discharged, or for any other reason such guarantor is not able to meet such obligation, the direct guarantors of such guarantor shall be liable for such obligation.

(3) TREATMENT OF SECOND-TIER GUARANTORS AS GENERAL CREDITORS.—

(A) SECOND-TIER GUARANTORS ARE GENERAL CREDITORS OF A DIRECT GUARANTOR.—Notwithstanding any provision of title II, United States Code, the Federal Deposit Insurance Act, or any other provision of Federal or State law, any direct guarantor which incurs a liability under paragraph (2) with respect to any direct guarantor described in paragraph (1) may file a claim as a general creditor in the case under title II or with the receiver or conservator in the case of a failed depository institution or failed insurance company within the 90-day period beginning on the date the liability is incurred.

(B) WHEN THE CLAIM IS A POST-PETITION CLAIM.—Any claim filed under subparagraph (A) shall be treated as a liability of the direct guarantor described in paragraph (1) which was incurred after such guarantor became a debtor under title II or a failed depository institution or failed insurance company to the extent that such guarantor is entitled to accrue premium income under any cross-guarantee or stop-loss contract after becoming a debtor or a failed institution or company less any losses paid by such guarantor after a debtor or a failed institution or company.

(C) PRE-PETITION CLAIMS.—Any claim filed under this paragraph which does not qualify as a claim to be filed under subparagraph (B) shall be treated as a liability the direct guar-

antor in paragraph (1) incurred before becoming a debtor under title II or failed depository institution or a failed insurance company.

(d) DIRECT GUARANTOR PROHIBITED FROM OBTAINING COLLATERAL FOR CROSS-GUARANTEE OBLIGATIONS.—No direct guarantor under any cross-guarantee or stop-loss contract may obtain or retain a security interest in a guaranteed party under the contract, or in any assets of the guaranteed party, in connection with such guarantor's cross-guarantee obligations under the contract, unless the guaranteed party is a guaranteed banking office.

(e) PROVISIONS OF CONTRACT REGARDING DIVISION OF LIABILITY.—

(1) SEVERAL LIABILITY.—No direct guarantor under any cross-guarantee or stop-loss contract shall be liable for the cross-guarantee obligations of any other direct guarantor under the contract.

(2) DIVISION OF LIABILITY.—Subject to the risk diversification requirements of section 116(d), the terms of a cross-guarantee or stop-loss contract shall establish the division of liability among the direct guarantors under the contract.

(3) LIABILITY OF DIRECT GUARANTOR PROPORTIONATE TO INTEREST IN SYNDICATE.—The rights, privileges, duties, and obligations of a direct guarantor under a cross-guarantee or stop-loss contract shall be proportionate to such guarantor's interest in the syndicate.

(4) SYNDICATES NOT PARTNERSHIPS OR JOINT VENTURES.—Notwithstanding any state law, a cross-guarantee or stop-loss syndicate is not a partnership or joint venture, except for purposes of section 117(c)(1).

(f) PREMIUM REQUIREMENTS.—

(1) IN GENERAL.—Each cross-guarantee and stop-loss contract shall describe the method for calculating and the timing of payment for any premium payable to the direct guarantor under the contract.

(2) RESTRICTION ON REPRICING OF RISK DUE TO STOP-LOSS OBLIGATION.—No method of calculating the premium payable under paragraph (1) shall, directly or indirectly, take into account losses that a guaranteed party accrues while guaranteed under the contract in such party's capacity as a direct guarantor under another cross-guarantee or stop-loss contract.

(g) MAXIMUM EFFECTIVE PERIOD OF CONTRACT.—

(1) LENGTH OF CONTRACT.—A cross-guarantee or stop-loss contract may not have an effective period of more than 5 years.

(2) AMENDMENTS.—The parties to any cross-guarantee or stop-loss contract may agree to extend the length of the contract as long as the contract as amended still ends within 5 years after the original effective date of the contract.

(3) RENEWAL OF CONTRACT MUST BE APPROVED BY THE CORPORATION.—No cross-guarantee or stop-loss contract may be renewed by the parties to the contract, and no successor contract may become effective, without the approval of the Corporation under section 122.

(4) PENALTIES FOR CONTINUING CONTRACT AFTER EXPIATION DATE.—For every day after the 30th day following the expiration of a cross-guarantee contract in which—

(A) the direct guarantors have not assumed control under section 118(a) of all the guaranteed companies guaranteed under the contract;

(B) a guaranteed party under such contract has not become a guaranteed party under another cross-guarantee contract;

(C) a successor contract is not being considered for approval under section 122 or the Corporation has already rejected two successor contracts; or

(D) the guaranteed party is not appealing the rejection by the Corporation, under section 122, of a successor contract or final judgment has been reached on such an appeal.

the Corporation may at its discretion penalize each direct guarantor under such contract up to $100,000.

(h) CANCELLATION OF CONTRACTS BY SYNDICATES.—

(1) MINIMUM NOTICE PERIOD.—A cross-guarantee or stop-loss syndicate under any cross-guarantee or stop-loss contract may cancel such contract in accordance with the terms of the contract, provided that the syndicate agent under the contract gives written notice of such cancellation to the Corporation and the guaranteed party or parties under the contract at least 90 days prior to the effective date of the cancellation.

(2) CANCELLATION OF ONE GUARANTEED FINANCIAL GROUP UNDER A GROUP CONTRACT.—A cross-guarantee syndicate may cancel a cross-guarantee contract with 1 guaranteed financial group under a group cross-guarantee syndicate contract without affecting the rights, privileges, duties, and obligations arising out of the syndicate contract with regard to the other guaranteed financial groups under the syndicate contract.

(3) WRITTEN RESTRICTIONS.—A cross-guarantee syndicate may seek remedies under paragraph (5) to enforce an additional restrictions imposed under the contract upon the activities of any guaranteed party under the contract that take effect after the occurrence of any of the following events:

(A) A request is made by the guaranteed party under section 118(d) to stay the assumption of control:

(B) A notice of cancellation has been given under paragraph (1) or (2); or

(C) The expiration of the contract.

(4) LIMITATION GUARANTEED PARTY.—A guaranteed party under any cross-guarantee or stop-loss contract may not become a direct guarantor under any other cross-guarantee or stop-loss contract during any of the following periods:

(A) The period beginning on the date such party receives a notice of cancellation under paragraph (1) or (2) with respect to such contract and ending on the date the party becomes a guaranteed party under a successor contract.

(B) The period beginning on the date the contract expires and ending on the date the party becomes a guaranteed party under a successor contract.

(C) The period during which a stay of the assumption of control by a cross-guarantee syndicate under section 1189(d) is in effect.

(5) ENFORCEMENT THROUGH INJUNCTIONS.—The United States district court with jurisdiction over a cross-guarantee or stop-loss syndicate seeking to enforce any restrictions or limitation described in paragraph (3) or (4).

(6) CONTINUED EFFECTIVENESS OF CONTRACTS UNTIL OTHER COVERAGE IS OBTAINED.—

(A) IN GENERAL.—The obligations of any party to a cross-guarantee or stop-loss contract shall remain in effect after the effective date of the cancellation of the contract by the direct guarantors or after the expiration of such contract, as the case may be, until—

(i) the guaranteed party becomes a guaranteed party under another cross-guarantee or stop-loss contract; or

(ii) in the case of a guaranteed party which ceases to exist as a legal entity, the guaranteed obligations of the institution are liquidated or become guaranteed obligations covered under another cross-guarantee or stop-loss contract.

(B) CANCELLATION WHEN NONDEPOSITORY GUARANTOR IS NOT A DIRECT GUARANTOR.—Notwithstanding subparagraph (A), a cancellation of a stop-loss contract by a stop-loss syndicate shall take effect immediately if the nondepository guarantor which is the party guaranteed under the contract—

(i) is not at the time of cancellation a direct guarantor under any cross-guarantee or stop-loss contract; and

(ii) has transferred any remaining risk under any cross-guarantee or stop-loss contract under which such guarantor was formerly a direct guarantor to another direct guarantor.

(i) CANCELLATION OF CONTRACTS BY GUARANTEED PARTY.—

(1) IN GENERAL.—The guaranteed financial group or nondepository guarantor which is the party guaranteed under a cross-guarantee or stop-loss contract may notify the direct guarantors under the contract at any time of such party's intention to cancel the contract.

(2) CANCELLATION NOT EFFECTIVE UNTIL SUBSTITUTE COVERAGE IS OBTAINED.—A cancellation of any cross-guarantee or stop-loss contract under paragraph (1) shall not the take effect until the cancelling party becomes a guaranted financial group or a nondepository guarantor under another cross guarantee or stop-loss contract.

(3) ALLOWING NONDEPOSITORY GUARANTORS TO EXIT THE BUSINESS.—Notwithstanding paragraph (2), a cancellation of a stop-loss contract by a nondepository guarantor shall take effect immediately if the nondepository guarantor—

(A) is not at the time of cancellation a direct guarantor under any cross guarantee or stop-loss contract; and

(B) has transferred any remaining risk under any cross-guarantee or stop-loss contract under which such guarantor was formerly a direct guarantor to another direct guarantor

(4) CANCELLATION FEE.—The cross-guarantee or stop-loss syndicate under a cross-guarantee or stop-loss contract which is cancelled pursuant to paragraph (1) may impose a cancellation fee in an amount determined in accordance with the terms of the contract.

(j) CONTINUED EFFECTIVENESS OF CONTRACTS AFTER CONVERSION OF CHARTER OF DEPOSITORY INSTITUTION.—If—

(1) any State depository institution becomes a Federal depository institution;

(2) any Federal depository institution becomes a State depository institution;

(3) any bank becomes a savings association;

(4) or any savings association becomes a bank.

through a conversion of the charter of the depository institution, any cross-guarantee contract under which the institution is a guaranteed depository institution and which is in effect immediately before such conversion shall remain in effect after the conversion.

(k) CONTINUING APPLICABILITY OF OBLIGATIONS UNDER THE CONTRACTS.—

(1) No voiding or Rescinding of Contracts.—No party to a cross-guarantee or stop-loss contract may void or rescind the contract, regardless of any defense to the existence or enforceability of the contract that might exist under Federal or State law.

(2) NO EXCUSES TO PERFORMANCE.—Notwithstanding any provision of Federal or State

law, no excuse for the failure to perform any obligation under a cross-guarantee or stop-loss contract shall be effective.

(3) NONCOMPLIANCE DOES NOT AFFECT OBLIGATIONS.—A party to a cross-guarantee or stop-loss contract shall remain obliged under the contract regardless of whether—

(A) the contract ceases to comply with any requirement under this title; or

(B) one or more parties to the contract fail to comply with this title.

(l) SUBMISSION OF DISPUTES TO ARBITRATION.—The terms of any cross-guarantee or stop-loss contract may provide for resolving disputes under the contract through binding arbitration.

(m) SUBSTITUTION OF DIRECT GUARANTORS.—

(1) IN GENERAL.—Any direct guarantor's rights, privileges, duties and obligations under a cross-guarantee or stop-loss contract, and any portion of any such rights, privileges, duties, and obligations, may be transferred to a successor direct guarantor, subject to the approval of the Corporation (pursuant to section 122 of this title).

(2) PARTIES AUTHORIZED TO RESTRICT SUBSTITUTION OF GUARANTORS IN A CONTRACT.—A guaranteed party or a cross-guarantee or stop-loss syndicate under a cross-guarantee or stop-loss contract may provide in such contract that any transfer under paragraph (1) of any interest of any direct guarantor in such contract shall be subject to the approval of such party or syndicate.

(n) SYNDICATE VOTING RULES.—

(1) PROPORTIONAL VOTING.—Each cross-guarantee and stop-loss contract shall provide that a direct guarantor's voting rights in the cross-guarantee or stop-loss syndicate shall be proportional to such guarantor's interest in the syndicate.

(2) VARIATIONS PERMITTED IN VOTING REQUIREMENTS.—A cross-guarantee or stop-loss contract may provide that the number of votes needed to approve an action by a cross-guarantee or stop-loss syndicate under the contract may differ depending upon the action on which a vote is taken.

(o) GUARANTEED COMPANY CAN BE COVERED ONLY UNDER CONTRACT.—No guaranteed company under any cross guarantee or stop-loss contract may be a guaranteed company under another cross-guarantee or stop-loss contract.

(p) AUTHORITY OF THE FDIC TO DIRECT ASSIGNMENT.—If any merger, acquisition, or other combination of 2 direct guarantors within any cross-guarantee or stop-loss syndicate occurs which causes the contract to materially exceed the limitations set forth in section 114(b)(1) or paragraph (1) or (2) of section 115(b), the Corporation may issue an order directing the merged guarantor to obtain a successor for that part of the guarantor's interest that exceeds the statutory limit.

(q) MERGER OF 2 OR MORE GUARANTEED COMPANIES.—After any merger, acquisition, or other combination of 2 or more guaranteed companies, the successor party's cross-guarantee or stop-loss contract shall meet the same requirements under section 114(b)(1) or paragraph (1) or (2) of section 115(b), that the successor would have to meet if the successor sought to become a guaranteed party under a new cross-guarantee or stop-loss contract.

(r) MODIFICATION OF CONTRACTS.—An agreement amending a cross-guarantee or stop-loss contract needs no consideration to be binding.

(s) GUARANTEED PARTY CANNOT BE A DIRECT GUARANTOR UNDER THE SAME CONTRACT.—No guaranteed party can be a direct guarantor under the cross-guarantee or stop-loss contract under which such party is a guaranteed party.

(t) RULE OR CONSTRUCTION RELATING TO CONTRACT TERMS.—No provision of this title shall be construed as prohibiting any cross-guarantee or stop-loss contract from containing any term or condition other than terms or conditions which are expressly prohibited by this title.

**SEC. 114. REQUIREMENTS APPLICABLE TO CROSS-GUARANTEE CONTRACTS.**

(a) Obligations Guaranteed Under a Cross-Guarantee Contract—

(1) OBLIGATIONS REQUIRED TO BE GUARANTEED OBLIGATIONS.—The following obligations of any guaranteed company or guaranteed banking office shall be guaranteed obligations under a cross-guarantee contract:

(A) DEPOSITS.—

(i) BANKS AND SAVINGS ASSOCIATION.—In the case of guaranteed depository institution, all deposits (as determined without regard to subparagraph (A) or (B) of section 3(l)(5) of the Federal Deposit Insurance Act), including insured deposits, payable at any office of the guaranteed company located within or without the United States.

(ii) BRANCHES OF FOREIGN DEPOSITORY INSTITUTIONS.—In the case of a guaranteed banking office, all deposits of such office payable at a location within the United States.

(B) LOANS AND ADVANCES FROM A DIRECT GUARANTOR, FEDERAL RESERVE BANK, OR FEDERAL HOME LOAN BANK.—All loans and advances from a direct guarantor, a Federal Reserve bank, or a Federal home loan bank.

(C) INTEREST-BEARING OBLIGATIONS OTHER THAN SUBORDINATED DEBT.—All other interest-bearing obligations other than subordinated debt.

(D) BALANCES DUE CLEARINGHOUSES, THE FEDERAL RESERVE, AND IN SETTLEMENT OF OTHER TRANSACTIONS.—All obligations owed to clearinghouses, to the Federal Reserve for funds transfers, to other funds transfer systems, and to any other person in settlement of financial transactions.

(E) CROSS-GUARANTEE OBLIGATIONS.—Cross-guarantee obligations for which the guaranteed company is liable as a direct guarantor under any other cross-guarantee or stop-loss contract.

(F) OBLIGATIONS INCURRED FOR FEE INCOME.—All other direct and contingent liabilities under any contract or commitment for which the guaranteed company or guaranteed banking office has or may receive any fee or other comparable consideration, including any letter of credit and any securities contract, commodity contract, forward contract, repurchase agreement, or swap agreement (as such terms are defined in section 11(e)(8)(D) of the Federal Deposit Insurance Act).

(G) ASSESSMENTS ON DEPOSITORY INSTITUTIONS FOR COSTS OF CLOSED LOOPS.—All liabilities assessed under section 127(d)(2).

(2) OBLIGATIONS WHICH MAY NOT BE GUARANTEED.—The following obligations of any guaranteed company or guaranteed banking office may not be guaranteed obligations under a cross-guarantee contract:

(A) SUBORDINATED DEBT.—

(i) IN GENERAL.—Subordinated debt issued by the guaranteed company or guaranteed banking office.

(ii) INCLUDES DEBT WHICH MAY BE REDEEMED BY THE DEBTHOLDER BY CHECK OR OTHER MEANS.—For purposes of this subparagraph, the term "subordinated debt" includes subordinated debt which may be withdrawn by or credited to the debtholder by a check, wire transfer, or other order of the debtholder.

(B) EQUITY INTERESTS.—Any equity interest in the guaranteed company or guaranteed banking office.

(3) OBLIGATIONS WHICH MAY BE INCLUDED UNDER A CROSS-GUARANTEE CONTRACT.—Any obligation of any guaranteed company or guaranteed banking office which is not required to be, or not prohibited from being, a guaranteed obligation under paragraphs (1) and (2) may be a guaranteed obligation under a cross-guarantee contract to the extend provided by the terms of the contract.

(4) JUDGMENTS AND SETTLEMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), a cross-guarantee contract may provide that any judgment against a guaranteed company under the contract, or any obligation of the company under a settlement agreement, in any action against the company in the company's capacity as trustee or custodian with respect to any person, shall be treated as a guaranteed obligation of such company to the extent that the company's duty to act as trustee or custodian with respect to such person, or to a designated 3d-party beneficiary, was expressly established by written agreement of the parties or by operation of law.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed to provide that the amount of any judgment or settlement from any action arising from any alleged tortious conduct, breach of contract, or violation of statutory obligation (other than the agreement establishing the duty of the institution to act as trustee or custodian) is a guaranteed obligation unless the cross-guarantee contract expressly so provides.

(5) VICARIOUS LIABILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a direct guarantor or syndicate agent under any cross-guarantee contract shall not be vicariously liable for any alleged tortious conduct, breach of contract, or violation of statutory obligation by any guaranteed party under the contract.

(B) EXCEPTION FOR FRAUD RELATED TO SUBORDINATED DEBT.—Notwithstanding subparagraph (A), the liability of any guaranteed party under a cross-guarantee contract for damages due to the fraudulent actions of such party related to marketing subordinated debt shall be a guaranteed obligation under the contract

(b) RISK DIVERSIFICATION.—

(1) MINIMUM NUMBER OF DIRECT AND SECOND-TIER GUARANTORS.—Each cross-guarantee contract shall comply with the requirements relating to the maximum percentage of all guaranteed obligations under the contract which may be guaranteed by any 1 direct guarantor and the minimum number of second-tier guarantors which the guaranteed party or parties shall have in the aggregate, as determined under the following table (as adjusted pursuant to paragraph (2)) on the basis of the total assets of all the guaranteed parties under the contract:

| Aggregate amount of assets of all guaranteed parties under the contract | Maximum percentage of cross-guarantee liability assumable by any 1 direct guarantor | Minimum number of second-tier guarantors |
|---|---|---|
| $100,000,000 or less | 5.0 | 100 |
| Greater than $100,000,000 but less than or equal to $500,000,000 | 4.0 | 125 |
| Greater than $500,000,000 but less than or equal to $1,000,000,000 | 2.5 | 150 |
| Greater than $1,000,000,000 but less than or equal to $10,000,000,000 | 1.5 | 200 |
| More than $10,000,000,000 | 1.0 | 250 |

(2) ADJUSTMENT OF DOLLAR AMOUNTS FOR INFLATION.—The amounts contained in the

table in paragraph (1) relating to the aggregate assets of guaranteed parties under any cross-guarantee contract shall be adjusted annually by the Corporation on the basis of changes in the deflator for the gross domestic product.

(c) BASIS FOR VALUING ASSETS AND LIABILITIES.—Each cross-guarantee contract shall describe the manner in which the equity capital of the guaranteed financial group shall be calculated for purposes of the contract.

(d) EMERGENCY LIQUIDITY.—Notwithstanding section 113(e)(3), the parties to a cross-guarantee contract may include terms relating to the provision of emergency liquidity to a guaranteed party by any direct guarantor without regard to the relative interest in the contract held by any guarantor providing the liquidity.

(e) INTERNAL GUARANTEES.—A guaranteed company under any cross-guarantee contract shall be jointly and severally liable to the direct guarantors under such contract for any loss incurred by the guarantors in connection with the cross-guarantee obligations of the guarantors to any other guaranteed company under such contract.

**SEC. 115. REQUIREMENTS APPLICABLE TO STOP-LOSS CONTRACTS.**

(a) GUARANTEED OBLIGATIONS UNDER A STOP-LOSS CONTRACT.—

(1) OBLIGATIONS REQUIRED TO BE GUARANTEED OBLIGATIONS.—A nondepository guarantor's cross-guarantee obligations shall be guaranteed obligations under a stop-loss contract.

(2) NO OTHER GUARANTEED OBLIGATIONS.—Except for the obligations described in paragraph (1), no obligation of a nondepository guarantor may be a guaranteed obligation.

(b) RISK DIVERSIFICATION.—

(1) MINIMUM NUMBERS OF DIRECT GUARANTORS.—A direct guarantor under a stop-loss contract may not guarantee more than 2 percent of the guaranteed obligations under such contract.

(2) SECOND-TIER GUARANTORS.—The direct guarantors under any stop-loss contract shall have, in the aggregate, no fewer than 150 direct guarantors.

**SEC. 116. ELIGIBILITY AND REQUIREMENTS FOR DIRECT GUARANTORS.**

(a) ELIGIBILITY.—

(1) IN GENERAL.—No person may become a direct guarantor unless such person is a guaranteed company or a nondepository guarantor.

(2) NONDEPOSITORY GUARANTOR.—

(A) IN GENERAL.—Subject to subparagraph (b) and subsection (c) of this section, any person may be a nondepository guarantor.

(B) NONELIGIBILITY OF DEPOSITORY INSTITUTIONS.—

(i) IN GENERAL.—No depository institution, or subsidiary of a depository institution, may be a nondepository guarantor.

(ii) RULE OF CONSTRUCTION FOR FOREIGN BANKS.—Clause (i) shall not be construed as prohibiting a foreign bank which has a branch in the United States from being a nondepository guarantor.

(iii) FOREIGN BANK DEFINED.—For purposes of clause (ii), the term "foreign bank" shall exclude any company organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(3) GUARANTEED DEPOSITORY INSTITUTIONS AUTHORIZED TO BE DIRECT GUARANTORS.—Notwithstanding any other Federal or State law restricting the powers of depository institutions, a guaranteed depository institution may be a direct guarantor under any cross-guarantee or stop-loss contract.

(B) DESIGNATED DIRECT GUARANTOR.—

(1) ONLY ONE GUARANTEED COMPANY WITHIN A GUARANTEED FINANCIAL GROUP MAY BE A DIRECT GUARANTOR.—No guaranteed company shall be a direct guarantor if another guaranteed company under the same cross-guarantee contract is already a direct guarantor under any cross-guarantee or stop-loss contract.

(2) DESIGNATION OF DIRECT GUARANTOR IN CROSS-GUARANTEE CONTRACT.—In the case of a cross-guarantee contract in which 2 or more companies are guaranteed under the contract, the contract shall designate which guaranteed company may, in accordance with paragraph (1), be a direct guarantor.

(c) FINANCIAL RESOURCES REQUIREMENTS FOR NONDEPOSITORY GUARANTORS.—

(i) NET WORTH.—No person may become a nondepository guarantor unless such person has a net worth of not less than $100,000,000 at the time such person would, but for this paragraph, become a party to such a contract.

(2) LIQUIDITY RESOURCES.—Each non-depository guarantor shall maintain unencumbered liquid assets in an amount equal to or greater than the amount which is equal to 5 times the projected annual premium from all cross-guarantee and stop-loss contracts under which the nondepository guarantor is a direct guarantor.

(3) ASSET REQUIREMENTS.—Only assets which are maintained within the United States and subject to the jurisdiction of a United States court may be taken into account for purposes of meeting the requirements of paragraph (1) and (2).

(d) RISK DIVERSIFICATION REQUIREMENTS FOR DIRECT GUARANTORS.—

(1) PROJECTED ANNUAL PREMIUM CAPACITY AND PROJECTED ANNUAL PREMIUM LIMIT.—A person may not become a direct guarantor under a cross-guarantee or stop-loss contract if, at the time the contract (but for this paragraph) would take effect—

(A) the sum of the estimated annual premium which the person would receive as a direct guarantor under the contract and the person's projected annual premium income would exceed such person's projected annual premium capacity as of—

(i) in the case of a contract which would take effect on or before the 15th day of any calendar month, the 2d calendar month preceding such calendar month; or

(ii) in the case of a contract which would take effect after the 15th day of any calendar month, the end of the calendar month preceding such calendar month; or

(B) the estimated annual premium which the person would receive as a direct guarantor under the contract would exceed such person's projected annual premium limit as of—

(i) in the case of a contract which would take effect on or before the 15th day of any calendar month, the 2d calendar month preceding such calendar month; or

(ii) in the case of a contract which would take effect after the 15th day of any calendar month, the end of the calendar month preceding such calendar month.

(2) CALCULATION OF PROJECTED ANNUAL PREMIUM.—

(A) IN GENERAL.—The syndicate agent under any cross-guarantee or stop-loss contract shall determine the projected annual premium due any direct guarantor for any calendar month by calculating the amount of such guarantor's share of the premium accrued by the guaranteed party or parties under the contract during such month and then annualizing such amount.

(B) 1ST TWO MONTHS.—During the 1st 2 calendar months in which any cross-guarantee or stop-loss contract is in effect, the syndicate agent shall determine the projected annual premium under the contract for each of these 2 calendar months by annualizing the premium rate in effect on the date the contract becomes effective.

(3) CALCULATION OF THE ESTIMATED ANNUAL PREMIUM FOR THE APPROVED CONTRACT.—

(A) IN GENERAL.—For purposes of paragraph (1), the term "estimated annual premium" means the annualized premium rate likely to be in effect on the date the contract becomes effective.

(B) SYNDICATE AGENT ESTIMATE.—The proposed syndicate agent for the contract shall make an estimate of the amount in paragraph (1) within five days prior to the date on which the contract is to become effective.

(4) CALCULATION OF PROJECTED ANNUAL PREMIUM INCOME.—For purposes of making any determination under paragraph (1)(A) with respect to a direct guarantor, the term "projected annual premium income" means the total projected annual premiums from all cross-guarantee or stop-loss contracts under which such guarantor is a direct guarantor, other than the contract for which such determination is being made, as of—

(A) in the case of a contract which would become effective on or before the 15th day of any calendar month, the 2d calendar month preceding such calendar month; and

(B) in the case of a contract which would become effective after the 15th day of any calendar month, the calendar month preceding such calendar month.

(e) LIABILITY OF ACQUIRER OF ANY DIRECTER GUARANTOR.—Any person who acquires (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act) any direct guarantor shall be obligated for all of the cross-guarantee obligations of such guarantor under any cross-guarantee or stop-loss contract to which such guarantor is a direct guarantor.

**SEC. 117. PROVISIONS RELATING TO CROSS-GUARANTEE AND STOP-LOSS SYNDICATES.**

(a) POWERS AND DUTIES OF SYNDICATE AGENTS.—

(1) SYNDICATE AGENT IS AGENT OF DIRECT GUARANTORS.—

(A) IN GENERAL.—The syndicate agent under any cross-guarantee or stop-loss contract shall act as an agent of the direct guarantors under such contract.

(B) EXCEPTIONS.—Notwithstanding subparagraph (A), the syndicate agent also shall have—

(i) a duty to protect the confidentiality of any aspect of a guaranteed party's affairs which the contract specifies shall be protected; and

(ii) duties to the Corporation as specified in this title.

(2) POWERS OF SYNDICATE AGENT.—No person under a cross-guarantee or stop-loss contract other than the syndicate agent shall have the following powers:

(A) MONITOR PERFORMANCE.—Monitor the performance, or contract with a third party to monitor the performance, of any party guaranteed under such contract.

(B) COLLECT PREMIUMS.—Collect the premiums due to the direct guarantors under such contract.

(3) SYNDICATE AGENT REPORTS TO THE CORPORATION.—The syndicate agent under any cross-guarantee or stop-loss contract shall notify the Corporation and the central electronic repository by the 15th of each calendar month—

(A) of the equity capital or the net worth, as the case may be, of the guaranteed financial group or nondepository guarantor under the contract as of the end of the prior calendar month;

(B) of the projected annual premium due each direct guarantor, as of the end of the prior calendar month; and

(C) in the case of a stop-loss contract, of the unencumbered liquid assets of the nondepository guarantor as of the end of the prior calendar month.

(4) CONFIRMATION OF GUARANTEE OF SPECIFIC OBLIGATIONS.—

(A) IN GENERAL.—The syndicate agent under any cross-guarantee contract shall—

(i) determine, at the request of any current or prospective creditor of a guaranteed company or guaranteed banking office under such contract, whether—

(I) the company or office has or will have an obligation to the creditor; and

(II) such obligation is or would be a guaranteed obligation under the contract; and

(ii) promptly notify the current or prospective creditor in writing of the agent's determination.

(B) DETERMINATION BINDING ON SYNDICATE.—Any notification of determination under subparagraph (A) with respect to any guaranteed company or guaranteed banking office shall be binding on the cross-guarantee syndicate which is a party to such contract.

(C) FEE.—A syndicate agent may charge a creditor fee for making the determination and notifying the creditor under subparagraph (A).

(5) SIDE CONTRACTS.—

(A) IN GENERAL.—Subject to subparagraph (B), no direct guarantor or group of direct guarantors under a cross-guarantee or stop-loss contract may enter into any other contract or binding agreement pertaining to the contract with the syndicate agent under such cross-guarantee or stop-loss contract.

(B) EXCEPTION FOR CERTAIN LIMITED CONTRACTS.—Notwithstanding subparagraph (A), a syndicate agent and the direct guarantors under a cross-guarantee or stop-loss contract may enter into another contract or binding agreement if—

(i) the terms of such contract or agreement relate solely to rights and obligations of such parties to each other under the cross-guarantee or stop-loss contract, including the compensation of the agent, to the extent such terms are not inconsistent with the cross-guarantee or stop-loss contract; and

(ii) the contract or agreement does not affect any right or obligation of—

(I) any guaranteed party under the cross-guarantee or stop-loss contract; or

(II) any creditor or shareholder of any such guaranteed company.

(b) SYNDICATION OF CROSS-GUARANTEE AND STOP-LOSS RISKS.—Notwithstanding any provision of Federal or State law, interests in any cross-guarantee or stop-loss syndicate are not securities for any purpose and any person or group of persons may organize and market the risk of loss represented by the participation of any person as a party guaranteed under any cross-guarantee or stop-loss contract.

(c) TAXATION OF SYNDICATES.—

(1) TREATED AS PARTNERSHIP.—Any cross-guarantee or stop-loss syndicate shall be treated as a partnership for purposes of the Internal Revenue Code of 1986.

(2) CONSOLIDATED RETURNS BY SYNDICATE AGENT.—A syndicate agent may file an annual information return with respect to all syndicates for which such agent is an agent, and all distributions with respect to such syndicates, on a consolidated basis.

(3) TAX EXEMPT STATUS.—Any syndicate under any cross-guarantee or stop-loss contract, any income or gross receipts (including premiums), and any activity of the syndicate shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority.

(d) AUDITS OF SYNDICATE AGENTS.—The direct guarantors under any cross-guarantee or stop-loss contract shall have the right to retain a third party to audit the performance of the syndicate agent under the terms of the contract, unless the parties have otherwise explicitly waived such right in the contract.

(e) REPLACEMENT OF SYNDICATE AGENTS.—

(1) IN GENERAL.—The cross-guarantee or stop-loss syndicate under any cross-guarantee or stop-loss contract may at any time and without cause replace the syndicate agent under such contract, subject to the guaranteed financial group or nondepository guarantor's approval of the new syndicate agent, by amending the contract and obtaining the Corporation's approval of the new syndicate agency under section 122.

(2) NO EFFECT ON CONTRACT.—The replacement of a syndicate agent by the direct guarantors in accordance with paragraph (1) shall not affect the continuing existence or enforceability of the contract.

(3) WITHDRAWAL OF SYNDICATE AGENT.—

(A) IMMEDIATE SUBMISSION OF AMENDED CONTRACT WITH NEW SYNDICATE AGENT.—If a syndicate agent should resign or otherwise cease providing required services under a cross-guarantee or stop-loss contract, whether wrongfully, as allowed under such contract, or for any other reason, the cross-guarantee or stop-loss syndicate shall immediately submit an amendment to the contract, with a successor syndicate agency named in the amendment, to the Corporation for approval.

(B) INTERIM FDIC APPOINTMENT.—The Corporation may appoint a successor syndicate agent to serve until a cross-guarantee or stop-loss syndicate has complied with the requirements under subparagraph (A).

**SEC. 118. ASSUMPTION OF CONTROL OF A GUARANTEED COMPANY BY A CROSS-GUARANTEE SYNDICATE.**

(a) IN GENERAL.—A cross-guarantee syndicate under any cross-guarantee contract may assume control of a guaranteed company under the contract under the following circumstances:

(1) CANCELLATION.—After a cancellation of the contract by the syndicate or the guaranteed financial group has become effective unless a successor cross-guarantee contract has taken effect.

(2) EXPIRATION.—After a expiration of the cross-guarantee contract unless a successor cross-guarantee contract has taken effect.

(3) BREACH OF CONTRACT.—Immediately upon the occurrence of any circumstance established in the cross-guarantee contract as a ground for taking such action.

(b) POWERS AND DUTIES OF A CROSS-GUARANTEE SYNDICATE AFTER ASSUMPTION OF CONTROL.—

(1) GENERAL POWERS.—

(A) OPERATE THE COMPANY.—A cross-guarantee syndicate which assumes control of a guaranteed company under subsection (a) may—

(i) take over the books, records and assets of and operate the guaranteed company with all the powers of the members or shareholders, the directors, and the officers of the company and conduct all business of the company;

(ii) collect all obligations and money due the company;

(iii) perform in the name of the company all functions of the company consistent with the appointment of the syndicate as the successor to the managers and directors of the company and the duties of the syndicate with respect to the company; and

(iv) preserve and conserve the assets and property of such company.

(B) DISPOSITION OF COMPANY.—The cross-guarantee syndicate which assumes control of a guaranteed company under subsection (a) may, as the successor to such company—

(i) merge the guaranteed company with another guaranteed company;

(ii) sell or otherwise dispose of the company; or

(iii) place the company in liquidation and proceed to realize upon the assets of the company.

(2) DUTIES.—

(A) NOTICE OF TAKEOVER TO FDIC.—If a cross-guarantee syndicate assumes control of a guaranteed company under subsection (a), the syndicate agent of such syndicate shall immediately provide written notice of such assumption of control to the Corporation.

(B) PAYMENT OF VALID OBLIGATIONS.—Any cross-guarantee syndicate which assumes control of a guaranteed company in accordance with subsection (a) shall pay all valid obligations of the company in accordance with the original contractual terms of these obligations.

(C) DISTRIBUTION OF ASSETS.—In any case in which funds remain from the liquidation, sale, or other disposition of the assets of any guaranteed company after all depositors, creditors, other claimants, and administrative expenses of the syndicate have been paid or otherwise resolved, the syndicate shall promptly distribute such funds to the company's shareholders or members, as the case may be.

(D) FIDUCIARY DUTY.—Any cross-guarantee syndicate which assumes control of a guaranteed company in accordance with subsection (a) shall succeed to the same fiduciary responsibility to shareholders as the directors and officers of such company had.

(c) NO AUTHORITY FOR ANY FEDERAL BANKING AGENCY OR STATE BANK SUPERVISOR TO PREVENT ASSUMPTION OF CONTROL.—No Federal banking agency or State bank supervisor or any other Federal or State agency may take any action to prevent the assumption of control of a guaranteed company under subsection (a).

(d) EXPEDITED PROCEDURES FOR JUDICIAL REVIEW OF ASSUMPTION OF CONTROL.—

(1) IN GENERAL.—A guaranteed company may file an action in the court designated as having jurisdiction under section 119(a)(3) requesting a stay of any assumption of control of such company by a cross-guarantee syndicate, and the court shall issue a final order on an expedited basis.

(2) BASIS FOR DETERMINATION.—In the case of any action under paragraph (1), the court shall—

(A) decide the case solely on the basis of the provisions in the cross-guarantee contract which relate to the assumption of control of the guaranteed company by the cross-guarantee syndicate; and

(B) uphold the determination of the syndicate unless—

(i) in the case of an assumption of control under paragraph (1) and (2) of subsection (a), the action of the syndicate was arbitrary, capricious, or otherwise not in accordance with law; and

(ii) in the case of an assumption of control under paragraph (3) of subsection (a), the guaranteed company can show by a preponderance of the evidence that the syndicate has no right under the contract to assume control.

(3) EXPEDITED APPEALS.—Any appeal of any final order issued by a court in connection with an action under paragraph (1) shall be heard by the appeals court on an expedited basis.

**SEC. 119. ENFORCEMENT OF CONTRACTS.**

(a) JURISDICTION OF FEDERAL COURTS.—

(1) IN GENERAL.—For purposes of section 1331 of title 28, United States Code, any action arising under any cross-guarantee or stop-loss contract, or any contract under section 17(a)(5)(B), shall be deemed to arise under Federal law.

(2) EXCLUSIVE JURISDICTION.—No court other than a district court of the United States shall have original jurisdiction of any action referred to in paragraph (1).

(3) DESIGNATION OF COURT IN CONTRACT.—Each cross-guarantee or stop-loss contract shall designate the district court of the United States which shall have the exclusive original jurisdiction of—

(A) any action arising under the contract; and

(B) any proceeding under title 11, United States Code, in which the debtor is a guaranteed company under the contract.

(b) RESTRICTIONS ON THIRD PARTY BENEFICIARY ACTIONS.—Notwithstanding any State law, no creditor of any guaranteed party under any cross-guarantee or stop-loss contract may bring an action against the direct guarantors of such guaranteed party for failure to perform any cross-guarantee obligation under the contract without first having obtained a judgment against the guaranteed party for failure to perform such obligation, unless-

(1) the direct guarantors have assumed control of the guaranteed party under section 118(a);

(2) the guaranteed party is a debtor under any proceeding under Title 11, United States Code; or

(3) the Corporation has appointed a conservator or receiver for the guaranteed party.

(c) SERVICE OF PROCESS—

(1) SERVICE UPON SYNDICATE AGENT.—Service of notice to the syndicate agency under any cross-guarantee or stop-loss contract shall serve as service upon any direct guarantor under the contract for any action arising out of such contract.

(2) SERVICE UPON A DIRECT GUARANTOR.—Service of notice to a direct guarantor under any cross-guarantee or stop-loss contract shall not serve as service upon any other direct guarantor to such contract.

(d) CONSENT OF SYNDICATE REQUIRED FOR COMMENCEMENT OF VOLUNTARY BANKRUPTCY PROCEEDINGS.—Notwithstanding any provision of Title 11, United States Code, no guaranteed company may file a petition under section 301 of such title (relating to voluntary cases) unless—

(1) the company has obtained the express written consent of the cross-guarantee syndicate under the cross-guarantee contract under which the company is a guaranteed company; and

(2) a copy of such consent is included in the petition.

SUBTITLE C—POWERS AND DUTIES OF THE FDIC

CHAPTER 1—CROSS-GUARANTEE PROCESS

**SEC. 121. REGULATOR OF THE CROSS-GUARANTEE PROCESS.**

(a) FDIC ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—Subject to section 127(a)(4), the Corporation shall have exclusive authority to enforce compliance with provisions of this title.

(2) ENFORCEMENT.—Subsections (b), (c), (d), (h), (l), and (n) of section 8 of the Federal Deposit Insurance Act and paragraph (1) and each subparagraph, other than subparagraphs (B) and (C), of paragraph (2) of subsection (i) of such section shall apply with respect to any syndicate agent and to any direct guarantor, but only with respect to any violation of any requirements under this title.

(b) LIMITATION OR STATE JURISDICTION.—

(1) IN GENERAL.—Notwithstanding any provision of State law, no State may exercise authority over any party to any cross-guarantee or stop-loss contract with respect to—

(A) whether such party may be a party to a cross-guarantee or stop-loss contract; and

(B) the rights, duties, privileges, or obligations of such party under the contract or pursuant to this title.

(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as affecting the authority of any State to determine the powers and regulate the activities of State depository institutions.

(c) DEADLINE FOR ISSUING REGULATIONS.—Unless otherwise specified in this title, the Corporation shall issue regulations under this title within one year of the date of enactment of this act.

**SEC. 122. APPROVAL PROCESS FOR CROSS-GUARANTEE AND STOP-LOSS CONTRACT.**

(a) EXPEDITED APPROVAL OF CONTRACTS AND CONTRACT AMENDMENTS—

(1) NOTICE AND REVIEW REQUIREMENT.—Except as provided in paragraph (3), no cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, and no amendment to any such contract, may take effect unless—

(A) the Corporation has been given 15 business days to review the contract or amendment; and

(B) before the end of the 15-day period described in subparagraph (A), the Corporation has not issued an order—

(i) disapproving the contract or amendment; or

(ii) extending the period within which the Corporation may disapprove the contract or amendment in accordance with paragraph (6).

(2) SUBMISSION OF CONTRACT OR AMENDMENT IN ELECTRONIC FORM.—The Corporation shall prescribe regulations requiring that—

(A) any cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, and any amendment to such contract, being submitted for review under this subsection shall be submitted in electronic form to the central electronic repository; and

(B) the Corporation be notified when a contract has been submitted to the central electronic repository for approval by the Corporation.

(3) NOTICE OF APPROVAL BEFORE END OF DISAPPROVAL PERIOD.—A cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, and any amendment to any such contract, may take effect before the expiration of the period described in paragraph (1)(A) (or extended in accordance with paragraph (6)) for disapproving such contract if the Corporation notifies the parties that the Corporation does not intend to disapprove the contract.

(4) SUBMISSION OF INFORMATION AND CERTIFICATIONS.—

(A) IN GENERAL.—The syndicate agent under any proposed cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or any amendment to any such contract, submitted to the Corporation for review under paragraph (1), shall also submit to the Corporation with such proposed contract such information and attestations or certifications as the Corporation may require by regulation.

(B) LIMITATION ON SCOPE OF INFORMATION REQUIRED.—The regulations prescribed by the Corporation under subparagraph (A) may not require the submission of any information other than information directly necessary for the Corporation to determine whether any proposed cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or amendment thereto, submitted to the Corporation for approval is in compliance with the requirements of this title.

(5) ADDITIONAL INFORMATION.—

(A) IN GENERAL.—The Corporation may, by specific request in connection with a particular proposed cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or amendment to any contract, submitted to the Corporation, require, on one occasion only, that additional information be submitted with respect to such contract or amendment, except that the Corporation may require only such information as may be relevant to—

(i) a determination of the extent to which the proposed contract is in compliance with the requirements of this title; and

(ii) the Corporation's evaluation of the contract in accordance with this section.

(B) WRITTEN NOTICE OF EXPLANATION.—For any request for additional information under subparagraph (A), the Corporation shall provide a detailed explanation of the specific reasons why such additional information is needed.

(6) EXTENSION OF DISAPPROVAL PERIOD.—If, in connection with a particular proposed cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or any amendment to any such contract, which is submitted to the Corporation, the Corporation requests additional information under paragraph (5), the Corporation may by order provide that the Corporation shall have any additional period (not to exceed 5 business days beginning on the date on which the Corporation receives such information) within which to disapprove the proposed contract.

(b) GROUNDS FOR DISAPPROVAL OF PROPOSED CONTRACT OR AMENDMENT.—The Corporation may disapprove any proposed cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or any amendment to any such contract, only if—

(1) the contract, including any party under the contract, is not in compliance with this title; or

(2) the information submitted under subsection (a) was insufficient to determine whether the contract and the parties to the contract are in compliance with this title.

(c) WRITTEN NOTICE OF DISAPPROVAL.—

(1) IN GENERAL.—If the Corporation disapproves any cross-guarantee, stop-loss, or group cross-guarantee syndicate contract, or any amendment thereto, the Corporation shall provide immediate written notice to the parties to such contract of any disapproval at the time of disapproval.

(2) STATEMENT OF REASON FOR DISAPPROVAL.—The written notice under paragraph (1) shall contain a detailed explanation of the specific reasons for the disapproval under this section.

(d) CONDITIONAL APPROVALS.—

(1) IN GENERAL.—The Corporation shall prescribe regulations which would allow a cross-guarantee, stop-loss, or group cross-guarantee syndicate contract to be conditionally approved, in a manner otherwise in accordance with this section, before the effective

date of the contract if, at the time such conditional approval is granted, all the information which is required for the Corporation to make a final determination of whether the contract meets the requirements of this title cannot be known or ascertained.

(2) RECONFIRMATION.—The regulations prescribed under paragraph (1) shall allow the Corporation, upon receipt of all the information the Corporation needs to determine whether the contract meets the requirements of this title, 3 business days to give the contract a final approval.

(3) REPLACEMENT OF GUARANTORS.—The regulations prescribed under paragraph (1) shall allow, without restriction the replacement of a direct guarantor with another direct guarantor during the period between the date of conditional approval and final approval.

**SEC. 123. CENTRAL ELECTRONIC REPOSITORY.**

(a) ESTABLISHMENT.—

(1) STOCK FOR-PROFIT CORPORATION.—Before the end of the 3-month period beginning on the date of the enactment of this Act, the Corporation shall provide for the incorporation, under the law of such State as the Corporation determines to be appropriate, of a stock for-profit corporation to establish and maintain a central electronic repository for cross-guarantee, stop-loss, and group cross-guarantee syndicate contracts.

(2) MAINTENANCE OF ALL PAST AND CURRENT CONTRACTS.—The central electronic repository shall maintain files, in electronic form, of all cross-guarantee and stop-loss contracts which have not been disapproved by the Corporation under section 122, including expired and canceled contracts, all amendments to any such contract which have not been disapproved by the Corporation under such section, and all proposed contracts and contract amendments which have been filed with the Corporation, but not yet acted upon.

(3) DIRECT ACCESS FOR ALL GUARANTORS, GUARANTEED PARTIES AND SYNDICATE AGENTS.—The files in the central electronic repository established under this section shall be directly accessible by electronic means to any direct guarantor, guaranteed party, and syndicate agent, and any other person who qualifies for access under procedures established by the board of directors of the repository.

(4) NO CONTRACT OR AMENDMENT MAY TAKE EFFECT BEFORE FILING IN REPOSITORY.—No cross-guarantee or stop-loss contract, and no amendment to any such contract, may take effect before such contract or amendment, as approved, is on file in the central electronic repository.

(5) LEGAL EVIDENCE OF THE CONTRACT.—The provisions of any cross-guarantee contract or stop-loss contract, including, any amendment to such contract, on file in the central electronic repository shall—

(A) be irrebuttable evidence of the contract; and

(B) trump all other forms or versions of the contract.

(b) AVAILABILITY OF CERTIFIED COPIES.—

(1) IN GENERAL.—The central electronic repository shall make available a copy of any cross-guarantee or stop-loss contract on file in the repository, including any amendment to any such contract and any proposed contract or proposed amendment to any contract, to any person, any government officer, agency, or department, or any court upon request.

(2) CERTIFICATION OF COPIES.—

(A) IN GENERAL.—Each copy of a cross-guarantee or stop-loss contract which is made available in accordance with paragraph (1) shall contain a certification by the central repository facility that such copy is true and correct.

(B) PRIMA FACIE EVIDENCE.—a copy of a cross-guarantee or stop-loss contract which is certified in accordance with subparagraph (A) shall establish prima facie the contract.

(C) MAINTENANCE OF DATA BASE OF GUARANTORS.—The central electronic repository shall maintain a data base containing the names of the direct guarantors under each cross-guarantee or stop-loss contract which has not expired or been canceled and such other information with regard to such contracts that will enable any person to determine whether or not any such contract, proposed contract, or proposed amendment to any contract, is in compliance with this title and regulations prescribed under this title.

(2) MANAGEMENT.—

(1) BOARD OF DIRECTORS.—The management of the central electronic repository shall be vested in a board of directors consisting of 7 members—

(A) 4 of whom shall be elected by direct guarantors from among individuals who are senior executive officers of direct guarantors; and

(B) 3 of whom shall be elected by active syndicate agents from among individuals who are senior executive officers of active syndicate agents.

(2) ELECTION OF BOARD OF DIRECTORS.—The Corporation shall establish by regulation procedures for the election of members of the governing board.

(3) POWERS.—

(A) IN GENERAL.—The board of directors shall have such powers as may be provided in the articles of incorporation of the central electronic repository.

(B) SPECIFIC POWERS.—The powers provided in the articles of incorporation shall include the following:

(i) ISSUE QUALIFYING SHARES OF STOCK.—To issue 7 shares of voting qualifying stock, each share of which shall be of nominal value, held by a director of the repository.

(ii) ISSUE OBLIGATIONS.—To issue debentures, bonds, or other obligations, to borrow and give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

(C) BYLAWS.—The board of directors shall prescribe and amend, with the approval of the Corporation under paragraph (4), bylaws not inconsistent with this section or the articles of incorporation regulating the manner in which the central electronic repository shall be governed.

(4) APPROVAL OF BYLAWS .—The Corporation may disapprove the bylaws of the central electronic repository, and any amendment to the bylaws or articles of incorporation, only if the Corporation determines that the bylaws or the amendment would permit the central electronic repository to operate in an unbusinesslike manner or in a manner that would imperil the integrity of the contracts on file with the repository.

(e) FUNDING.—

(1) IN GENERAL.—The central electronic repository may assess filing, access, and certification fees and other appropriate charges to the extent necessary to meet operating expenses and capital costs of the repository.

(2) INITIAL FUNDING AND CAPITALIZATION.—

(A) BORROWING.—As of the date on which the interim board of directors appointed under subsection (f)(1) first meets with a quorum present, the central electronic repository may borrow from the Bank Insurance Fund or Savings Association Insurance Fund, with the amount borrowed from each fund proportional to the share of insured deposits held by members of such fund as of the date of enactment of this Act, an amount not to exceed $10,000,000 at an interest rate not to exceed the sum of 4 percent plus the average annual percentage yield on 3-month bills issued by the Secretary of the Treasury under section 3104(a) of title 31, United States Code, as determined by the Corporation as of the most recent issue date preceding the date on which the loan is made by such fund.

(B) USE OF PROCEEDS.—The proceeds of any loan from the Bank Insurance Fund or Savings Association Insurance Fund to the central electronic repository under subparagraph (A) shall be used to pay for the following costs incurred by the repository:

(i) Administrative expenses, including employees salaries and benefits.

(ii) Cost incurred in connection with the development of software for use by the repository.

(iii) Acquisition by purchase or lease of property, including computer hardware, necessary for the operation of the repository.

(C) REPAYMENT DEADLINE.—The total amount of principal and interest due on any amount borrowed from the Bank Insurance Fund or Savings Association Insurance Fund by the central electronic repository pursuant to this paragraph shall be repaid before the end of the 5-year period beginning on the cross-guarantee activation date.

(f) INTERIM BOARD OF DIRECTORS.—

(1) APPOINTMENT.—The 1st board of directors of the central electronic repository shall be appointed by the Corporation as follows:

(A) 4 members appointed from among senior executive officers of depository institutions which are likely to be among the 1st depository institutions to become guaranteed companies.

(B) 3 members appointed from among individuals likely to be associated with active syndicate agents.

(2) TERMS.—Members appointed under paragraph (1) shall serve until the earlier of—

(A) the end of the 1-year period beginning on the cross-guarantee activation date; or

(B) the date a board of directors elected in accordance with a subsection (d)(1) first meets with quorum present.

(3) VACANCY.—Any vacancy on the board appointed under paragraph (1) shall be filled in the manner in which the original appointment was made.

(g) STANDARD CONTRACT LANGUAGE.—The board of directors of the central electronic repository is hereby authorized to maintain and update as needed standard language for various provisions of cross-guarantee, stop-loss, and group cross-guarantee syndicate contracts that parties to these contracts may, at their sole discretion, incorporate by reference in contracts and contract amendments they submit to the Corporation for approval.

**SEC. 124. RESTRCTIONS ON CLOSED LOOPS.**

(a) PROHIBITION OF MORE THAN ONE UNRELATED CLOSED LOOP.—At no time shall two or more closed loops exist unless at least one cross-guarantee or stop-loss contract is a contract in each closed loop.

(b) FDIC Call-Back.—If, at any time, the requirements of subsection (a) are violated—

(1) the Corporation shall notify each guaranteed party under each cross-guarantee and stop-loss contract which is part of the closed loop which has the fewest number of contracts that it must obtain a successor cross-guarantee or stop-loss contract; and

(2) each guaranteed party under paragraph (1) shall have 10 business days upon notification to submit a successor contract to the Corporation for approval.

CHAPTER 2—PROTECTION OF INSURED DEPOSITS

**SEC. 126. SYNDICATE AGENT REPORTS ON GUARANTEED DEPOSITORY INSTITUTIONS.**

(a) SEMIANNUAL REPORTS.—

(1) IN GENERAL.—The syndicate agent under any cross-guarantee contract shall submit a report to the Corporation within 30 days after the end of each semiannual period containing the following information:

(A) The total amount of insured deposits held by any guaranteed depository institution under the contract as of the end of the semiannual period.

(B) The FDIC asset value for the guaranteed financial group as of the end of the semiannual period.

(2) MORE FREQUENT REPORTS FOR INSTITUTIONS WHICH POSE SIGNIFICANT RISK.—If any guaranteed financial group has a qualified asset-to-insured deposit ratio of less than 1.04, the Corporation may require the syndicate agent for the cross-guarantee contract which guarantees such financial group to submit reports more frequently than required under paragraph (1), but not more frequently than monthly.

(b) DETERMINATION OF FDIC ASSET VALUE.—

(1) REASONABLE CASH VALUE.—For purposes of this section, the FDIC asset value of any guaranteed financial group shall be determined on the basis of—

(A) the fair market value of an asset, or of property which is comparable to such asset, in connection with a cash sale under conditions which are customary and reasonable for marketing such asset in the ordinary course of business; or

(B) in the case of an asset without a regular market, the amount that a willing buyer would pay in cash for the asset, and a willing seller would accept, if the buyer and the seller were not under any immediate need for a sale or purchase.

(2) USE OF FDIC ASSET VALUE.—The information provided in reports under this section with respect to the FDIC asset value of any guaranteed financial group may be taken into account by the corporation only for the purpose of making a determination under section 126(a)(2) to require more frequent information or under section 127 to appoint a conservator or receiver for such institution.

(c) VERIFICATION OF REPORTED INFORMATION.—

(1) IN GENERAL.—Upon the request of a direct guarantor under a cross-guarantee contract, the Corporation may authorize a third-party auditor to verify the accuracy of any information reported under subsection (a) by the syndicate agent for such contract, so long as such third-party is not a competitor of any depository institution guaranteed under the contract for which information is being verified.

(2) USE OF THIRD-PARTY AUDIT.—The Corporation shall use any information provided by a third-party under paragraph (1) in making any determination under section 127(a)(1)(A).

(d) SEMIANNUAL PERIOD DEFINED.—For purposes of this chapter, the term "semiannual period" means, with respect to any calendar year, the following two periods:

(1) The period beginning on January 1 of such year and ending on June 30 of such year.

(2) The period beginning on July 1 of such year and ending on December 31 of such year.

(e) QUALIFIED ASSET-TO-INSURED DEPOSIT RATIO DEFINED.—For purposes of this chapter, the term "qualified asset-to-insured deposit ratio" means, with respect to any guaranteed financial group, the amount determined by dividing the FDIC asset value of such group by the amount of the insured deposits of all the depository institutions under the contract.

**SEC. 127. FDIC APPOINTMENT OF CONSERVATOR OR RECEIVER.**

(1) IN GENERAL.—Notwithstanding any Federal or State law, the Corporation shall appoint itself conservator or receiver for a depositor institution guaranteed under a cross-guarantee contract if and only if—

(A) the qualified asset-to-insured deposit ratio is less than 1.02 for the guaranteed financial group guaranteed under such contract; or

(B) the institution has not met the deadline to submit a contract for approval under section 124(b)(2) or the Corporation has rejected a contract submitted under such section.

(2) POWERS OF THE CORPORATION AS CONSERVATOR OR RECEIVER.—The provisions of section 11 of the Federal Deposit Insurance Act shall apply with respect to the conservator or receiver appointed under this section in the same manner as section 11 applies to a conservator or receiver appointed under or in accordance with such section 11.

(3) APPOINTMENT AS BAR TO SUBSEQUENT PROCEEDING UNDER TITLE 11.—Notwithstanding any provision of title 11, United States Code, no depository institution for which a conservator or receiver has been appointed under this subsection may be a debtor in a case under such title.

(4) ACTION TO FORCE FDIC TAKEOVER.—Any party to any cross-guarantee or stop-loss contract can bring a mandamus action in federal court to force the Corporation to appoint itself conservator or receiver for any depository institution as required under paragraph (1).

(b) STAY OF APPOINTMENT UPON ACTION OF DIRECT GUARANTORS.—The district court of the United States designated under a cross-guarantee contract to have jurisdiction over all actions arising under the contract may, upon application by the cross-guarantee syndicate under the contract, stay the appointment by the Corporation under paragraph (1)(A) of subsection (a) of a conservator or receiver for a guaranteed depository institution if the syndicate demonstrates to the satisfaction of the court that each depository institution guaranteed under the contract is solvent.

(c) PROTECTION FOR ALL GUARANTEED OBLIGATIONS.—A conservator or receiver appointed for a depository institution under subsection (a) shall perform fully on all guaranteed obligations of the depository institution.

(d) RECOVERY FOR FDIC LOSSES.—

(1) Recovery from direct guarantors for FDIC takeovers of institutions with an FDIC asset value below 1.02.—

(a) IN GENERAL.—A direct guarantor under any cross-guarantee contract shall be liable to the Corporation, in proportion to such guarantor's share of the total cross-guarantee obligations of all direct guarantors which are members of the cross-guarantee syndicate under the contract, for the amount of loss incurred by the Corporation in connection with the appointment of a conservator or receiver under paragraph (1)(A) of subsection (a) for any depository institution guaranteed under such contract.

(B) CORPORATION CANNOT OVERRIDE SEVERAL LIABILITY.—No direct guarantor which is a member of any cross-guarantee or stop-loss syndicate shall be liable to the Corporation under subparagraph (A) due to a default by any other member of such cross-guarantee or stop-loss snydicate.

(2) RECOVERY FROM ALL DEPOSITORY INSTITUTIONS FOR LOSSES DUE TO CLOSED LOOPS.—

(A) IN GENERAL.—All depository institutions guaranteed under any cross-guarantee contract shall be liable to the Corporation for the amount of loss incurred by the Corporation in connection with the appointment of a conservator or receiver under subsection (a)(1)(B).

(B) LIABILITY PROPORTIONAL TO AN INSTITUTION'S SHARE OF OVERALL GUARANTEED OBLIGATIONS.—A guaranteed depository institution or guaranteed banking office shall be liable under subparagraph (A) in proportion to such institution's or office share of the deposits of all depository institutions at the time of the appointment of the conservator or receiver.

(C) FDIC AUTHORIZATION.—The Corporation is authorized to assess depository institutions for any amounts under this paragraph.

(e) WORKING CAPITAL FINANCING FOR THE FDIC.—

(1) IN GENERAL.—The Corporation shall have the authority to borrow, from any source other than the U.S. Treasury, the Federal Financing Bank, any Federal Reserve bank, or any other department or agency of the federal government, any funds needed as working capital in connection with the appointment of a conservator or receiver under subsection (a).

(2) REPAYMENT.—The repayment of any borrowing under paragraph (1) shall be funded solely from recoveries under subsection (d) and the assets of the depository institution for which a conservator or receiver has been appointed.

(3) NO FEDERAL GUARANTEE FOR BORROWING.—The federal government shall not guarantee repayment of any loan under paragraph (1).

**SEC. 128. BACKUP INSURANCE ON DEPOSITS AT GUARANTEED DEPOSITORY INSTITUTIONS.**

(a) ESTABLISHMENT OF CROSS-GUARANTEE BACKUP FUND.—

(1) IN GENERAL.—There is hereby established the cross-guarantee backup fund consisting of amounts deposited pursuant to section 144 and subsection (c) of this section.

(2) ADMINISTRATION OF FUND.—The cross-guarantee backup fund shall be administered by the Corporation.

(b) BACKUP DEPOSIT INSURANCE.—

(1) FUND LIABILITY.—Deposits in any guaranteed depository institution shall be insured against loss, to the same extent as deposits are insured against loss by the Corporation under section 11(a) of the Federal Deposit Insurance Act (as in effect on the day before the enactment of this Act), in the event that the Corporation cannot recover under section 127(d) adequate funds to pay for any loss due to the appointment of a conservator or receiver under section 127(a).

(2) SUBORDINATED DEBT NOT TREATED AS DEPOSIT.—No subordinated debt of any guaranteed depository institution or any guaranteed banking office may be treated as a deposit for purposes of paragraph (1).

(c) USE AND DISPOSITION OF FUND.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, amounts in the cross-guarantee backup fund may be used only to pay—

(A) the administrative expenses incurred by the Corporation in regulating the cross-

guarantee system under this subtitle and providing deposit insurance under this section, including the expense of the Cross-Guarantee Advisory Committee; and

(B) any loss incurred by any depositor in connection with an insured deposit at a depository institution.

(2) INVESTMENTS.—Amounts on deposit in the cross-guarantee backup fund in excess of the amount which the Corporation determines to be necessary to meet anticipated expenses shall be invested in direct obligations of the United States and interest thereon shall accumulate in the fund.

SUBTITLE D—MISCELLANEOUS PROVISIONS

**SEC. 131. INSTITUTIONS OFFERING UNINSURED DEPOSITS.**

The Corporation shall ensure that any company other than—

(a) a depository institution;

(b) a branch which is not an insured branch (as the term "insured branch" is defined in section 3(s) of the Federal Deposit Insurance Act);

(c) an insured credit union or noninsured credit union (as such terms are defined in section 101(7) of the Federal Credit Union Act);

(d) a broker or dealer registered under the Securities and Exchange Act of 1934; or

(e) an investment company registered under the Investment Company Act of 1940,

which accepts deposits or assumes obligations which would be deposits if the institution were a bank or savings association (as defined in section 3 of the Federal Deposit Insurance Act) is accepting such deposits and assuming such obligations in accordance with all applicable Federal and State laws which relate to the licensing and regulation of institutions which accept deposits or assume such obligations.

**SEC. 132. CROSS-GUARANTEE ADVISORY COMMITTEE.**

(a) ESTABLISHMENT REQUIRED.—The Corporation shall establish, within three months of the date of enactment, an advisory committee designated as the Cross-Guarantee Advisory Committee (hereafter in this section referred to as the "advisory committee") consisting of 9 members.

(b) MEMBERSHIP.—

(1) ELECTION AND TERMS.—The guaranteed financial groups in each of the advisory committee districts established by the Corporation pursuant to subsection (d) shall elect 1 of the members of the advisory committee for a 3-year term.

(2) VACANCY.—Any vacancy occurring on the advisory committee before the expiration of the term of any member shall be filled in the same manner as such member's original election and any member elected to fill a vacancy shall serve only for the remainder of such term.

(3) STAGGERED TERMS.—Of the members first elected to the advisory committee—

(A) 3 shall serve 3-year terms;

(B) 3 shall serve 2-year terms; and

(C) 3 shall serve 1-year terms,

as designated by the Corporation at the time of election.

(4) NO COMPENSATION.—No member of the advisory committee shall receive any compensation from the Corporation by reason of service on the advisory committee.

(5) TRAVEL EXPENSES.—A member of the advisory committee shall be allowed travel or transportation expenses while away from such member's home or regular place of business and at the place of service with the advisory committee.

(c) QUARTERLY MEETING TO ADVISE THE CORPORATION.—The advisory committee shall meet at least once during each calendar quarter to advise the Board of Directors of the Corporation on matters affecting the operation and regulation of the cross-guarantee process.

(d) ADVISORY COMMITTEE DISTRICTS.—

(1) IN GENERAL.—The Corporation shall establish 9 advisory committee districts.

(2) COMPOSITION OF DISTRICTS.—The districts established under this subsection shall—

(A) include those guaranteed financial groups the main office of which is located in such district; and

(B) be established in such manner that the total assets of the guaranteed financial groups in each of the 9 districts are substantially equivalent.

(3) DECENNIAL REAPPORTIONMENT.—

(A) IN GENERAL.—The Corporation shall establish the 9 districts every 10 years.

(B) NOT APPLICABLE TO SITTING MEMBERS.—Each individual who is a member of the advisory committee on the effective date of any reestablishing of the districts pursuant to paragraph (1) shall continue as a member and shall represent the successor district to the district from which such member was elected until the end of the member's term of office.

(e) INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply with respect to the Cross-Guarantee Advisory Committee.

**SEC. 133. FEDERAL RESERVE LENDING.**

(a) NO COLLATERAL REQUIRED FOR LENDING TO GUARANTEED COMPANY.—The cross-guarantee contract shall be sufficient collateral for any loan to a guaranteed company by any Federal Reserve bank for purposes of any provision of Federal law, any regulation prescribed by the Board of Governors of the Federal Reserve System, or any requirement of any such bank.

(b) CERTIFICATION OF NO LOSS.—Before February 1 of each calendar year beginning after the cross-guarantee activation date, the Board of Governors of the Federal Reserve System shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing—

(1) a certification that—

(A) no loss was incurred by such Board or any Federal Reserve Bank during the preceding calendar year on any loan or other advance to any guaranteed company during such year; and

(B) no loss is anticipated on any such loan or advance which remains outstanding at the end of such year; or

(2) the amount of any such loss or anticipated loss.

**SEC. 134. ADVERTISING OF GUARANTEED FINANCIAL GROUPS.**

(a) ADVERTISING DEPOSIT GUARANTEES.—

(1) IN GENERAL.—A guaranteed company or guaranteed banking office may advertise that deposits and certain other liabilities are fully guaranteed against any loss under a cross-guarantee contract approved by the Corporation.

(2) CROSS-GUARANTEE LOGO.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Corporation shall—

(A) design, after consultation with depository institutions, a logotype for use by a guaranteed company or guaranteed banking office to indicate that such a company or office is guaranteed under a cross-guarantee contract; and

(B) authorize guaranteed companies and guaranteed banking offices to use such logotype.

(b) ADVERTISING BACKUP INSURANCE.—A depository institution which is guaranteed under a cross-guarantee contract shall—

(1) display at each place of business of the institution any sign described in section 18(a) of the Federal Deposit Insurance Act; and

(2) advertise that deposits at the institution are insured by the Corporation to $100,000.

SUBTITLE E—TRANSITION TO 100% CROSS-GUARANTEE PROCESS

**SEC. 141. EFFECTIVE DATE OF SYSTEM BASED ON MINIMUM NUMBER OF GUARANTEED DEPOSITORY INSTITUTIONS AND AMOUNT OF TOTAL ASSETS.**

(a) IN GENERAL.—No cross-guarantee or stop-loss contract shall take effect before the later of—

(1) the end of the 18-month period beginning on the date of the enactment of this Act; or

(2) 40 business days after the date on which the Corporation has approved, under subsection (b), a minimum of 200 cross-guarantee contracts under which depository institutions which, in the aggregate, have total assets of not less than $500,000,000,000 are guaranteed companies or guaranteed banking offices.

(b) CONTINGENT EFFECT OF CONTRACTS UNTIL EFFECTIVE DATE.—

(1) IN GENERAL.—The Corporation may conditionally approve a cross-guarantee or stop-loss contract to become effective on the date to be determined under subsection (a) even though not all direct guarantors under the contract meet the requirements under section 116(a)(1).

(2) MINIMUM REQUIREMENTS.—No cross-guarantee or stop-loss contract conditionally approved under paragraph (1) shall receive final approval from the Corporation for purposes of subsection (a)(2) unless—

(A) the cross-guarantee or stop-loss contract is 1 of a set of contracts in which each contract—

(i) is a contract in the same closed loop; and

(ii) becomes effective at the same time every other contract within the set of contracts takes effect; and

(B) at the time such contract becomes effective, the requirements of section 124(a) are met.

(c) PUBLICATION OF SUBSECTION (A) DATE.—The Corporation shall publish a notice in the Federal Register of the day by which contracts may take effect in accordance with subsection (a).

(d) ONE-TIME CONVERSION TO GUARANTEED PARTY STATUS.—Notwithstanding any provision of section 142, section 111 shall apply with respect to any depository institution as of the date—

(1) on which such institution first becomes a guaranteed depository institution or guaranteed banking office;

(2) on which any depository institution which is affiliated to such depository institution becomes a guaranteed depository institution; or

(3) on which any depository institution which is under common ownership with such depository institution under section 112(d)(2) becomes a guaranteed depository institution.

**SEC. 142. MANDATORY PHASE-IN OF CROSS-GUARANTEES AFTER EFFECTIVE DATE OF SYSTEM.**

(a) DEPOSITORY INSTITUTIONS WITH ASSETS OF $1,000,000,000 OR MORE.—Section 111 shall apply as of the end of the 2-year period beginning on the cross-guarantee activation date with respect to any depository institu-

tion which has consolidated assets at book value which are equal to or greater than $1,000,000,000 as of the end of such 2-year period.

(b) DEPOSITORY INSTITUTIONS WITH ASSETS OF $500,000,000 OR MORE.—Section 111 shall apply as of the end of the 3-year period beginning on the cross-guarantee activation date with respect to any depository institution which has consolidated assets at book value which are equal to or greater than $500,000,000 as of the end of such 3-year period.

(c) DEPOSITORY INSTITUTIONS WITH ASSETS OF $250,000,000 OR MORE.—Section 111 shall apply as of the end of the 4-year period beginning on the cross-guarantee activation date with respect to any depository institution which has consolidated assets at book value which are equal to or greater than $250,000,000 as of the end of such 4-year period.

(d) DEPOSITORY INSTITUTIONS WITH ASSETS OF $100,000,000 OR MORE.—Section 111 shall apply as of the end of the 5-year period beginning on the cross-guarantee activation date with respect to any depository institution which has consolidated assets at book value which are equal to or greater than $100,000,000 as of the end of such 5-year period.

(e) DEPOSITORY INSTITUTIONS WITH ASSETS OF $50,000,000 OR MORE.—Section 111 shall apply as of the end of the 6-year period beginning on the cross-guarantee activation date with respect to any depository institution which has consolidated assets at book value which are equal to or greater than $50,000,000 as of the end of such 6-year period.

(f) DEPOSITORY INSTITUTIONS WITH ASSETS OF $25,000,000 OR MORE.—Section 111 shall apply as of the end of the 7-year period beginning on the cross-guarantee activation date with respect to any depository institution which has consolidated assets at book value which are equal to or greater than $25,000,000 as of the end of such 7-year period.

(g) ALL OTHER DEPOSITORY INSTITUTIONS.—Section 111 shall apply as of the end of the 8-year period beginning on the cross-guarantee activation date with respect to any depository institution which is not described in subsection (a), (b), (c), (d), (e), or (f).

(h) CONSOLIDATED ASSETS AT BOOK VALUE DEFINED.—The term "consolidated assets at book value" means the total value, as determined on a consolidated basis and in accordance with generally accepted accounting principles, of all tangible and intangible property of any depository institution and all affiliates of the institution.

**SEC. 143. APPOINTMENT OF CONSERVATOR OR RECEIVER FOR INSTITUTIONS WHICH FAIL TO COMPLY WITH TRANSITION REQUIREMENT.**

The Corporation shall immediately appoint a conservator or receiver for any depository institution which is not a guaranteed depository institution or guaranteed banking office under any cross-guarantee contract as of the date by which such institution is required to be a guaranteed depository institution or guaranteed banking office under section 142.

**SEC. 144. EXIT FEES.**

(a) CONTINGENT PAYMENT OF EXIT FEE UPON CONVERSION OF DEPOSITORY INSTITUTION TO NEW SYSTEM.—

(1) PAYMENT OF EXIT FEE.—Any insurance fund member which becomes a guaranteed depository institution or guaranteed banking office may be assessed an exit fee in an amount to be determined and assessed under paragraph (2), and such fee shall be deposited in the insurance fund of which the guaranteed depository institution or guaranteed banking office was a member on the cross-guarantee activation date.

(2) DETERMINATION OF AMOUNT OF FEE.—

(A) TOTAL AMOUNT OF EXIT FEE TO COLLECT FROM MEMBERS OF AN INSURANCE FUND.—The Corporation shall calculate for each insurance fund, as of the cross-guarantee activation date, the total amount of exit fees it would collect as of that date if all members of the insurance fund, except those members the Corporation projects will have to be liquidated, did become a guaranteed depository institution or guaranteed banking office on such date.

(B) CALCULATION OF TOTAL AMOUNT OF EXIT FEES.—For the purpose of subparagraph (A), the total amount of exit fees to be collected for each insurance fund shall be the greater of zero or the present value of—

(i) the sum of—

(I) total insured deposits of the members of an insurance fund on the cross-guarantee activation date (minus the insured deposits, on such date, held by insurance fund members which the Corporation estimates will be liquidated) multiplied by 0.2 percent;

(II) losses incurred by an insurance fund for depository institutions placed into conservatorship or receivership after the cross-guarantee activation date;

(III) administrative expenses of an insurance fund incurred after the cross-guarantee activation date; and

(IV) transfers from an insurance fund to the FDIC serverance fund; minus—

(ii) the sum of—

(I) the balance in an insurance fund, as of the cross-guarantee activation date, after adding back any reserve for future losses as of such date, provided that the balance in the Savings Association Insurance Fund on that date shall be the greater of zero or, for the period between October 1, 1993 and the cross-guarantee activation date, the sum of all amounts assessed against Savings Association Insurance Fund members and interest earned during such period by such fund, minus the sum of losses paid or accrued for members of such fund placed into conservatorship or receivership and administrative expenses such fund incurs during such period; and

(II) premiums earned by an insurance fund after the cross-guarantee activation fund.

(C) AMOUNT OF EXIT FEE PAID BY MEMBERS OF AN INSURANCE FUND.—Each insurance fund member, on the date such member becomes a guaranteed depository insitution or guaranteed banking office, shall pay to the insurance fund of which such member was a member on the cross-guarantee activation date an amount equal to the amount calculated in paragraph (B) multiplied by—

(i) The insured deposits of such member on the cross-guarantee activation date; divided by

(ii) The total amount of insured deposits of the members of such insurance fund on the cross-guarantee activation date, minus the insured deposits, as of such date, held by insurance fund members which the Corporation estimates as of that date will be liquidated.

(D) INTEREST RATE PAID ON EXIT FEES FOR CONTRACTS THAT BECOME EFFECTIVE AFTER THE CROSS-GUARANTEE ACTIVATION DATE.—Any insurance fund members which pays an exit fee shall also pay on the same day interest on the exit feel for the period between the cross-guarantee activation date and the date on which the exit fee is paid.

(3) LIABILITY FOR EXIT FEE.—Any acquirer of an insurance fund member shall be liable for any exit fee due when such acquirer becomes a guaranteed depository institution or guaranteed banking office or, if the acquirer already is a guaranteed depository institution or guaranteed banking office, on the day the acquisition transaction officially is consummated.

(b) ORIGINAL FUNDING OF CROSS-GUARANTEE BACKUP FUND.—Upon payment of any exit fee due under paragraph (a)(1), the Corporation shall transfer from the insurance fund of which the depository institution was a member, as of the cross-guarantee activation date, to the cross-guarantee backup fund an amount equal to 0.2 percent of the insured deposits of such institution as of the cross-guarantee activation date plus interest on the amount transferred.

(c) FUNDING FOR FDIC SEVERANCE FUND.—When necessary, the Corporation shall transfer cash from each insurance fund to cover disbursements the Corporation makes from the FDIC severance fund, with the amount transferred from the each fund bearing the same proportion as the insurance deposits of such funds, as of the cross-guarantee activation date, bear to the total insurance deposits of both funds as of that date.

(d) LOANS TO THE CENTRAL ELECTRONIC REPOSITORY.—The Corporation shall extend loans from each of the insurance funds to the central electronic repository, as authorized under section 123(e)(2), with the amount loaned by each fund bearing the same proportion as the insured deposits of such fund, as of the enactment date of this bill, bear to the total insured deposits of both funds as of that date.

(e) ADDITIONAL ASSESSMENTS IN CASE OF SHORTFALL IN INSURANCE FUNDS.—

(1) ANNUAL REESTIMATE.—As of the first eight anniversaries of the cross-guarantee activation date, the Corporation shall reestimate for each insurance fund the amounts calculated under subsection (a)(2)(B).

(2) PUBLIC COMMENTS AND HEARING.—The Corporation shall seek public comments and hold at least one public hearing before issuing its final judgment on any reestimate made under paragraph (1).

(3) DETERMINATION OF ADDITIONAL ASSESSMENT.—Within 60 days after a reestimate of (a)(2)(B), the Corporation shall determine under (a)(2)(C) for each member of an insurance fund as of the cross-guarantee activation date which still exists an amount equal to such member's percentage-share of the total insured deposits of all members of that insurance fund as of such date which have not ceased to exist, multiplied by the amount determined by the reestimate of (a)(2)(B) for the insurance fund of which such member was a member.

(4) NO ADDITIONAL ASSESSMENTS WHEN A FUND IS SOLVENT.—If any amount calculated under paragraph (3) is less than zero, then the assessment under such paragraph shall be zero.

(5) COLLECTION OF ADDITIONAL ASSESSMENT.—If an insurance fund member liable for an additional assessment under paragraph (3) has become, as of the effective date of the reestimate, a guaranteed depository institution or guaranteed banking office, then such member shall pay the additional assessment to the insurance fund to which it belongs on the cross-guarantee activation date within 20 business days after being notified of the additional assessment.

(f) ASSESSMENT PROCEDURE.—The Corporation shall prescribe, by regulation, procedures for assessing an exit fee under subsections (a) and (e).

(g) EXCESS AMOUNT IN INSURANCE FUNDS SHALL BE TRANSFERRED TO THE CROSS-GUAR-

ANTEE BACKUP FUND.—On the eighth anniversary of the cross-guarantee activation date and after first fully accruing for the present value of all losses and expenses associated with depository institutions to be placed in conservatorship or receivership after the eighth anniversary date, any balance remaining in each insurance fund shall be transferred to the cross-guarantee backup fund.

(h) CALCULATION OF INTEREST OR DISCOUNT RATE.—For the purpose of this section, the rate of interest or the discount rate to be used in a calculation for any insurance fund shall be the average daily percentage yield earned on the investments of each insurance fund for the period of time for which interest or a discounted value is being calculated.

(i) DEFINITIONS.—For purposes of this section—

(1) The term "insurance fund" means the Bank Insurance Fund or the Savings Association Insurance Fund; and

(2) The term "insurance fund member" means a depository institution, the deposits of which were insured by an insurance fund on the cross-guarantee activation date.

**SEC. 145. SEVERANCE PAY AND RELATED BENEFITS FOR FORMER STATE AND FEDERAL BANKING AGENCY EMPLOYEES.**

(a) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE EMPLOYEE.—The term "eligible employee" means any individual—

(A) who is employed by a Federal banking agency, a State bank supervisor, or the Federal Financial Institutions Examination Council (FFIEC) as of the date of the enactment of this Act, including employees of the Corporation on detail to the Resolution Trust Corporation; and

(B) whose employment is terminated by the agency or supervisor after such date other than for cause.

(2) FEDERAL BANKING AGENCY.—The term "Federal banking agency" has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.

(3) STATE BANKING SUPERVISOR.—The term "State banking supervisor" means any officer, agency, or other entity of any State (as defined in section 3 of the Federal Deposit Insurance Act) which has primary regulatory authority over State banks or State savings associations (as such terms are defined in section 3 of such Act) in such State.

(b) SEVERANCE PAY.—

(1) IN GENERAL.—Subject to paragraph (2), any eligible employee shall be entitled to receive in a lump sum, from the FDIC severance fund at the time such employee's employment by a Federal banking agency, State bank supervisor, or the FFIEC, is terminated, severance pay in the amount which is equal to the sum of—

(A) the amount equal to 2 months of compensation at the employee's average annual rate of base pay for the last 12 calendar months of the employee's employment by any Federal banking agency or State bank supervisor; plus

(B) the product of—

(i) the amount equal to 3 weeks of compensation at the employee's annual rate of base pay (as determined under subparagraph (A)); and

(ii) the number of years (including any fraction of a year) of full-time service of such employee with any Federal banking agency, State bank supervisor, or the FFIEC (or any predecessor of any such agency or supervisor).

(2) EXCEPTION FOR EMPLOYEES REEMPLOYED BY ANOTHER FEDERAL OR STATE AGENCY.—Paragraph (1) shall not apply with respect to any eligible employee who—

(A) in the case of an individual who is an eligible employee by virtue of being separated from service with any Federal agency, transfers to or becomes employed by another Federal department, agency, or Government corporation; or

(B) in the case of an individual who is an eligible employee by virtue of being separated from service with a State bank supervisor, transfers to or becomes employed by another department, agency, or instrumentality of such State.

(3) PROHIBITION ON CERTAIN GOVERNMENT SERVICE AFTER ACCEPTING SEVERANCE PAY.—

(A) FEDERAL EMPLOYEE.—No individual who receives severance pay under this subsection by virtue of being separated from service with a Federal agency or State bank supervisor may be employed by any Federal officer, department, agency, or Government corporation during the 5-year period beginning on the date such severance pay is received by such individual.

(b) STATE EMPLOYEE.—No individual who is, but for this subparagraph, entitled to receive severance pay under this subsection by virtue of being separated from service with a State bank supervisor may receive such pay unless such individual has entered into a contract with the Corporation under which such individual, in consideration of the payment of such severance pay, is obligated to return such amount in full, plus interest, to the Corporation if such employee is employed by any officer, department, or agency of that State during the 5-year period beginning on the date such severance pay is received by such individual.

(4) PURCHASE OF ADDITIONAL RETIREMENT BENEFITS.—An eligible employee may use any portion of the severance pay to which the employee is entitled under this subsection to purchase additional benefits or make additional investments in any Federal retirement plan in which the employee is or was entitled to participate as an employee before becoming an eligible employee.

(c) RELOCATION EXPENSES.—An eligible employee who obtains employment away from the place such employee was employed by an appropriate Federal agency or State banking supervisor shall be entitled to receive travel, relocation, and moving expenses from the FDIC severance fund to the same extent Federal employees who are transferred or reemployed are authorized to receive such expenses under subchapter II of chapter 57 of title 5, United States Code.

(d) FUNDING BENEFITS FOR ELIGIBLE EMPLOYEES.—

(1) ESTABLISHMENT OF FDIC SEVERANCE FUND.—There is hereby established the FDIC severance fund which shall be administered by the Corporation.

(2) RELATED EXPENSES.—Expenses incurred by the Corporation in administering the FDIC severance fund shall be paid from the fund.

**SEC. 146. ABOLITION OF FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.**

The Federal Financial Institutions Examination Council is hereby abolished, effective on the date on which section 142(g) shall first become effective.

## TITLE II—AMENDMENTS TO OTHER LAWS

**SEC. 201. AMENDMENTS RELATING TO NATIONAL BANKS.**

(a) EXEMPTIONS FROM MINIMUM CAPITAL, STOCK, AND OTHER REQUIREMENTS COVERED BY CROSS-GUARANTEE CONTRACTS.—

(1) CAPITAL OF NATIONAL BANKS.—Section 5138 of the Revised Statutes of the United States (12 U.S.C. 51) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(2) PREFERRED STOCK IN MEMBER BANKS.—Section 345 of the Banking Act of 1935 (12 U.S.C. 51B–1) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(3) DEFICIENT CAPITAL PROVISION FOR NATIONAL BANKS.—Section 5205 of the Revised Statutes of the United States (12 U.S.C. 55) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(4) WITHDRAWAL OF CAPITAL PROVISION FOR NATIONAL BANKS.—Section 5204 of the Revised Statutes of the United States (12 U.S.C. 56) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(5) INCREASE IN CAPITAL PROVISION FOR NATIONAL BANKS.—Section 5142 of the Revised Statutes of the United States (12 U.S.C. 57) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(6) DECREASE AND DISTRIBUTION OF CAPITAL PROVISION FOR NATIONAL BANKS.—Section 5143 of the Revised Statutes of the United States (12 U.S.C. 59) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the approval of the Comptroller of the Currency shall not be required for any reduction of capital stock, or any distribution to shareholders by reason of any such reduction, under such sentence by any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(7) DIVIDEND PROVISIONS.—

(A) IN GENERAL.—Section 5199(a) of the Revised Statutes of the United States (12 U.S.C. 60(a)) is amended—

(i) by striking "(a) The Directors" and inserting "(a) DECLARATION OF DIVIDEND.—

"(1) IN GENERAL.—Subject to paragraph (2), the directors";

(ii) by striking "expedient; expect that until the surplus fund of such association" and inserting "expedient.

"(2) EXCEPTION FOR CERTAIN UNDERCAPITALIZED ASSOCIATIONS.—Until the surplus fund of a national bank"; and

(iii) by adding at the end of paragraph (2) (as so redesignated by clause (ii) of this subparagraph) the following: "This paragraph shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the

Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(B) TECHNICAL AND CONFORMING AMENDMENT.—Section 5199(b) of the Revised Statutes of the United States (12 U.S.C. 60(b)) is amended—

(i) by striking "(b) The approval of the Comptroller" and inserting "(b) APPROVAL OF THE COMPTROLLER.—Except in the case of a national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992), the approval of the Comptroller"; and

(ii) by striking "such association" and inserting "a national bank".

(b) EXEMPTIONS FROM REQUIREMENTS RELATING TO DIRECTORS OF BANKS.—

(1) QUALIFICATIONS OF NATIONAL BANK DIRECTORS.—Section 5146 of the Revised Statutes of the United States (12 U.S.C. 72) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(2) SERVICE OF PRESIDENT OF NATIONAL BANK AS CHAIRMAN OF THE BANK'S BOARD OF DIRECTORS.—Section 5150 of the Revised Statutes of the United States (12 U.S.C. 76) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(3) MEMBER BANK DIRECTOR INTERLOCKS WITH SECURITIES FIRMS.—Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(4) LOANS ON OR PURCHASE OF NATIONAL BANK'S OWN STOCK.—Section 5201 of the Revised Statutes of the United States (12 U.S.C. 83) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(c) EXEMPTION FROM REQUIREMENT RELATING TO LOANS TO 1 BORROWER.—Section 5200 of the Revised Statutes of the United States (12 U.S.C. 84) is amended by adding at the end the following new subsection:

"(e) EXEMPTION OF GUARANTEED COMPANIES.—This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(d) EXEMPTION FROM REQUIREMENTS RELATING TO SECURITY FOR DEPOSITS OF GOVERNMENT AGENCIES AT NATIONAL BANKS.—Section 5153 of the Revised Statutes of the United States (12 U.S.C. 90) is amended—

(1) in the 1st undesignated paragraph, by striking "All national banking associations" and inserting "(a) IN GENERAL.— All national banks";

(2) in the 2nd undesignated paragraph, by striking "Any national banking association" and inserting "(b) DEPOSITORY FOR STATE AND LOCAL GOVERNMENTS.—Any national bank";

(3) in the 3rd undesignated paragraph, by striking "Any national banking association" and inserting "(c) DEPOSITORY FOR INDIAN TRIBES.—Any national bank"; and

(4) by adding at the end the following new subsection:

"(d) EXEMPTION FROM SECURITY AND COLLATERAL REQUIREMENTS.—A national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) shall not be required to give any security which is otherwise required under subsection (a), (b), or (c) for deposits with the bank under this section or for the performance of the bank as financial agent.".

(e) EXEMPTION FROM PROVISION RELATING TO TRANSFERS BY NATIONAL BANKS IN CONTEMPLATION OF INSOLVENCY.—Section 5242 of the Revised Statutes of the United States (12 U.S.C. 91) is amended by adding at the end the following new sentence: "This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992.".

(f) EXEMPTION FROM REQUIREMENTS RELATING TO REPORTS OF CONDITION.—Section 5211 of the Revised Statutes of the United States (12 U.S.C. 161) is amended by adding at the end the following new subsection:

"(d) EXEMPTION OF GUARANTEED COMPANIES.—This section shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992.".

(g) CONSENT OF GUARANTORS REQUIRED FOR VOLUNTARY DISSOLUTION.

(1) IN GENERAL.—Section 5220 of the Revised Statutes of the United States (12 U.S.C. 181) is amended—

(A) in the 1st undesignated paragraph, by striking "Any association" and inserting "(a) IN GENERAL.—Any national bank";

(B) in the 2nd undesignated paragraph, by striking "The shareholders shall designate" and inserting "(b) LIQUIDATING AGENT OR COMMITTEE.—The shareholders shall designate"; and

(C) by adding at the end the following new subsection:

"(c) CONSENT OF GUARANTORS REQUIRED FOR GUARANTEED COMPANIES.—In the case of any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992), the national bank may go into liquidation and be closed in accordance with subsection (a) only with the consent of the direct guarantors of such bank.".

(2) NOTICE TO SYNDICATE AGENT.—Section 5221 of the Revised Statutes of the United States (12 U.S.C. 182) is amended by inserting "and, in the case of a national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Depository Insurance Reform, and Regulatory Relief Act of 1992), to the syndicate agent of such bank" after "Comptroller of the Currency".

(h) COMPTROLLER OF THE CURRENCY NOT AUTHORIZED TO APPOINT RECEIVER.—

(1) IN GENERAL.—The Act entitled "An Act authorizing the appointment of receivers of national banking associations, and for other purposes." and approved June 30, 1876, is amended by inserting after the 1st section (12 U.S.C. 191) the following new section:

**"SEC. 2. EXEMPTION OF GUARANTEED NATIONAL BANKS.**

"This Act shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(2) EXEMPTION FROM ADDITIONAL GROUND FOR THE APPOINTMENT OF RECEIVERS.—Section 5234 of the Revised Statutes (12 U.S.C. 192) is amended by adding at the end the following new sentence: "This sentence shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(i) COMPTROLLER OF THE CURRENCY NOT AUTHORIZED TO APPOINT CONSERVATOR.—The Bank Conservation Act is amended by inserting after section 206 the following new section:

**"SEC. 207. EXEMPTION OF GUARANTEED NATIONAL BANKS.**

"This subchapter shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(j) COMPTROLLER OF THE CURRENCY NOT AUTHORIZED TO EXAMINE GUARANTEED BANKS.—Section 5240 of the Revised Statutes of the United States (12 U.S.C. 481–485) is amended by adding at the end of the 1st paragraph of such section the following new sentence: "Nothwithstanding any other provision of this section, the authority of the Comptroller of the Currency to examine any national bank or any affiliate of a national bank shall not apply with respect to any national bank which is a guaranteed depository institution (as defined in seciton 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) or any affiliate of such bank.".

(k) EXEMPTION FROM LIMITATION OR CONDITIONS ON REAL ESTATE LENDING AUTHORITY.—Section 24(a) of the Federal Reserve Act (12 U.S.C. 371(a)) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, a national bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) shall not be subject to section 18(o) of the Federal Deposit Insurance Act or any restriction or requirement prescribed by the Comptroller of the Currency under the preceding sentence.".

**SEC. 202. AMENDMENTS RELATING TO MEMBER BANKS.**

(a) FEDERAL RESERVE BOARD AND FEDERAL RESERVE BANKS NOT AUTHORIZED TO EXAMINE GUARANTEED MEMBER BANKS.—

(1) IN GENERAL.—Section 11(a)(1) of the Federal Reserve Act (12 U.S.C. 248(a)(1)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this section, the authority of the Board or any Federal reserve bank to examine any member bank shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(2) SPECIAL EXAMINATIONS.—The 1st sentence of the 5th undesignated paragraph of section 5240 of the Revised Statutes of the United States (12 U.S.C. 483) is amended by inserting "which are not guaranteed depository institutions (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)" after "member banks within its district".

(3) FOREIGN OPERATION OF STATE MEMBER BANKS.—The last sentence of the 6th undesignated paragraph of section 5240 of the Revised Statutes of the United States (12 U.S.C. 481) is amended by inserting "and are not guaranteed depository institutions (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)" before the period.

(4) EXAMINATIONS IN CONNECTION WITH ADVANCES OR DISCOUNTS.—Section 11(n) of the Federal Reserve Act (12 U.S.C. 248(n)) is amended by striking "depository institution," and inserting "depository institution (other than a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)),".

(b) EXEMPTION FROM MEMBER BANK LOAN LIMITATIONS.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by adding at the end the following new sentence: "This paragraph shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(c) EXEMPTION FROM LIMITATION ON ACCESS TO FED WIRE.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by inserting after paragraph (n) the following new paragraph:

"(o) PROHIBITION ON LIMITS ON ACCESS TO PAYMENT AND CLEARING SYSTEMS BY GUARANTEED MEMBER BANKS.—Nothwithstanding any other provision of law, the Board may not limit or deny access by any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) to the payment system or any system in effect for clearing transactions in securities for the purpose of protecting any such system from any risk.".

(d) FEDERAL RESERVE BOARD NOT AUTHORIZED TO APPOINT CONSERVATOR OR RECEIVER.—Section 11(p) of the Federal Reserve Act (12 U.S.C. 248(p)) (as added by section 133(f) of the Federal Deposit Insurance Corporation Act of 1991) is amended to read as follows:

"(p) AUTHORITY TO APPOINT CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 11(c)(8) of the Federal Deposit Insurance Act.

"(B) EXCEPTION FOR GUARANTEED DEPOSITORY INSTITUTIONS.—This paragraph shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(e) QUALIFICATION OF GUARANTEED STATE BANKS FOR MEMBER BANK STATUS WITHOUT APPLICATION.—

(1) IN GENERAL.—The 1st undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 321) is amended by adding at the end the following new sentence "Notwithstanding the application requirement contained in the 1st sentence of this paragraph, any State bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) may become a member of the Federal Reserve System without application by agreeing to be subject to all applicable provisions of this Act and by subscribing to stock in the same manner and amount as a national bank under section 2.".

(2) EXEMPTION FROM CAPITAL, RESERVE, AND REPORTING REQUIREMENTS.—The 1st sentence of the 6th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "banks admitted to membership under authority of this section".

(3) EXEMPTION FROM EXAMINATION.—The 1st undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 325) is amended by striking "such banks" and inserting ", any bank admitted to membership under this section, other than a bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992),".

(4) EXEMPTION FROM SPECIAL EXAMINATIONS.—The 8th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this paragraph, the authority of the Board to examine any member bank shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992),".

(5) EXEMPTION FROM CERTAIN FORFEITURE PROVISION.—The 9th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 327) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "a member bank".

(6) EXEMPTION FROM ADDITIONAL CAPITAL REQUIREMENT.—The 11th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 329) is amended by adding at the end the following sentence: "This paragraph shall not apply with respect to any member bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(7) EXEMPTION FROM SECURITY AND COLLATERAL REQUIREMENT.—The last sentence of the 15th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 332) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "the banks and trust companies thus designated".

(8) MEMBERSHIP QUALIFICATION IN THE CASE OF STATE MUTUAL SAVINGS BANKS.—The 16th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 333) is amended by inserting "Notwithstanding the application requirement contained in the preceding sentence, any State mutual savings bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) may become a member of the Federal Reserve System without application by agreeing to be subject to all applicable provisions of this Act and by subscribing to stock in the same manner and amount as provided in this paragraph for State mutual savings banks applying for membership."

(9) EXEMPTION FROM AFFILIATE REPORTING REQUIREMENTS.—

(A) IN GENERAL.—The 1st sentence of the 17th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 334) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "bank admitted to membership under this section".

(B) EXAMPTION FROM ADDITIONAL AFFILIATE REPORTING REQUIREMENTS.—The 18th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 334) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "affiliated member bank".

(10) EXEMPTION FROM EXAMINATION REQUIREMENTS.—The 22d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338) is amended by inserting ", other than a bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)," after "State member banks" the 1st place such term appears.

(f) EXEMPTION FROM INTEREST REQUIREMENTS.—Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end the following new sentence: "No provision of this subsection shall apply with respect to a member bank which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(g) EXEMPTION FROM REQUIREMENTS RELATING TO INTERBANK LIABILITIES AND TRANSACTIONS WITH AFFILIATES.—

(1) INTERBANK LIABILITIES.—Section 23 of the Federal Reserve Act (12 U.S.C. 371(b–2)) is amended by adding at the end the following new subsection:

"(f) EXEMPTION FOR GUARANTEED DEPOSITORY INSTITUTIONS.—A guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) shall not be subject to any regulation or order issued under this section.".

(2) EXEMPTION FROM RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES.—Sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c, 371c–1) are each amended by adding at the end of each such section the following new subsection:

"(f) EXEMPTION FOR GUARANTEED DEPOSITORY INSTITUTIONS.—This section shall not apply to any guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) or any affiliate of any such institution.".

(h) EXEMPTION FROM LIMITATION ON INVESTMENTS IN, OR LOANS ON, BANK PREMISES.—Section 24A of the Federal Reserve Act (12 U.S.C. 371d) is amended by adding at the end the following new sentence: "This section shall not apply to any guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(i) EXEMPTION FROM LIMITATIONS ON BANKERS' ACCEPTANCES.—Section 13(7) of the Federal Reserve Act (12 U.S.C. 372) is amended by adding at the end the following new subparagraph:

"(I) EXEMPTION FROM LIMITATIONS FOR GUARANTEED DEPOSITORY INSTITUTIONS.—Sub-

paragraphs (B), (C), (D), (E), (F), and (H) shall not apply to any guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(j) EXEMPTION FROM PURCHASING AND LENDING LIMITS RELATING TO DIRECTORS AND OFFICERS—Section 22 of the Federal Reserve Act (12 U.S.C. 375, 376, 503, 375a, and 375b) is amended by inserting before subsection (d) the following new subsection:

"(c) EXEMPTION FOR GUARANTEED DEPOSITORY INSTITUTIONS.—Subsections (d), (e), (g), and (h) shall not apply to any guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) or any affiliate of any such institution.".

**SEC. 203. AMENDMENTS RELATING TO SAVINGS ASSOCIATIONS.**

(a) GUARANTEED SAVINGS ASSOCIATION DEFINED.—Section 2 of the Home Owners' Loan Act (12 U.S.C. 1462) is amended by adding at the end the following new paragraphs:

"(10) GUARANTEED SAVINGS ASSOCIATION.—The term 'guaranteed savings association' means a savings association which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).

"(11) GUARANTEED FEDERAL SAVINGS ASSOCIATION.—The term 'guaranteed Federal savings association' means a Federal savings association which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(b) EXEMPTION FROM EXAMINATION AND REGULATION BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—

(1) IN GENERAL.—Section 4(a) of the Home Owners' Loan Act (12 U.S.C. 1463(a)) is amended by adding at the end the following new paragraph:

"(4) EXEMPTION FOR GUARANTEED SAVINGS ASSOCIATIONS.—The authority of the Director under this subsection or subsection (b) or (c) to examine any savings association or prescribe regulations applicable to savings associations shall not apply with respect to any guaranteed savings association.".

(2) FEDERAL SAVINGS ASSOCIATIONS.—Section 5(a) of the Home Owners' Loan Act (12 U.S.C. 1464(a)) is amended by adding at the end the following new sentence: "The authority of the Director under the preceding sentence to prescribe regulations to provide for the examination and regulation of Federal savings associations shall not apply with respect to the examination or regulation of any guaranteed Federal savings association.".

(3) EXEMPTION FROM EXAMINATION FEE PROVISIONS.—Section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) is amended by adding at the end the following new subsection:

"(n) EXEMPTION FOR GUARANTEED SAVINGS ASSOCIATIONS.—This section and the authority of the Director under this section shall not apply with respect to any guaranteed savings association.".

(c) EXCEPTIONS TO LIMITATIONS ON DEPOSIT AND RELATED POWERS.—

(1) DEPOSIT POWERS.—Section 5(b)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)) is amended by adding at the end the following new subparagraph:

"(G) SPECIAL RULES APPLICABLE TO GUARANTEED SAVINGS ASSOCIATIONS.—

"(i) STATUTORY AUTHORITY.—A guaranteed Federal savings association shall have the powers described in subparagraphs (C), (E), and (F) without regard to the condition or limitation contained in each such subparagraph relating to regulations of the Director.

"(ii) LIMITATION ON REGULATORY AUTHORITY.—The exercise by a guaranteed Federal savings association of powers established under subparagraph (A) or (D) or the last sentence of subparagraph (B) shall not be subject to any regulations prescribed by the Director under such provision.

"(iii) EXEMPTION.—A guaranteed Federal savings association shall not be subject to the 1st sentence of subparagraph (B).".

(d) EXCEPTIONS TO LIMITATIONS ON LOAN AND INVESTMENT POWERS.—Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended by adding at the end the following new paragraph:

"(7) EXCEPTIONS FOR GUARANTEED SAVINGS ASSOCIATIONS.—

"(A) LIMITATIONS ON REGULATORY AUTHORITY.—The exercise by a guaranteed Federal savings association of powers established under any provision of this subsection shall not be subject to any regulations prescribed by the Director under this subsection.

"(B) EXEMPTION FROM MAXIMUM AMOUNT LIMITATIONS.—A guaranteed Federal savings association shall not be subject to any limitation in this subsection on the outstanding amount of loans or investments by the association under any provision of this subsection, without regard to whether such maximum amount is expressed as a fixed dollar amount or as a percentage of such association's assets or capital.".

(e) EXEMPTION FROM ENFORCEMENT AND CONSERVATORSHIP AND RECEIVERSHIP PROVISIONS.—Section 5(d) of the Home Owners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end the following new paragraph:

"(7) EXEMPTION FOR GUARANTEED SAVINGS ASSOCIATIONS.—This subsection and the authority of the Director under this subsection shall not apply with respect to any guaranteed savings association.".

(f) EXEMPTION FROM FITNESS STANDARDS.—Section 5(e) of the Home Owners' Loan Act (12 U.S.C. 1464(e)) is amended by adding at the end the following new sentence:

"The preceding sentence shall not apply with respect to any savings association which, at the time the charter is granted, is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) or is required to be a guaranteed depository institution before such association accepts any deposit.".

(g) EXEMPTION FROM REQUIREMENTS RELATING TO SECURITY FOR DEPOSITS OF GOVERNMENT AGENCIES.—Section 5(k) of the Home Owners' Loan Act (12 U.S.C. 1464(k)) is amended by adding at the end the following new sentence: "A guaranteed savings association shall not be required to give any security for deposits with the savings association under this section or for the performance of the association as fiscal agent.".

(h) EXEMPTION FROM MINIMUM CAPITAL REQUIREMENTS.—Section 5(s) of the Home Owners' Loan Act (12 U.S.C. 1464(s)) is amended by adding at the end the following new paragraph:

"(6) EXEMPTION FOR GUARANTEED SAVINGS ASSOCIATIONS.—This subsection and the authority of the Director under this subsection shall not apply with respect to any guaranteed savings association.".

(i) EXEMPTION FROM CAPITAL STANDARDS.—Section 5(t)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(1)) is amended by adding at the end the following new subparagraph:

"(E) EXEMPTION FOR GUARANTEED SAVINGS ASSOCIATIONS.—This subsection and the authority of the Director under this subsection shall not apply with respect to any guaranteed savings association.".

(j) EXEMPTION FROM REQUIREMENT RELATING TO LOANS TO 1 BORROWER.—Section 5(u) of the Home Owners' Loan Act (12 U.S.C. 1464(u)) is amended by adding at the end the following new paragraph:

"(4) EXEMPTION FOR GUARANTEED SAVINGS ASSOCIATIONS.—This subsection shall not apply with respect to any guaranteed savings association.".

(k) EXEMPTION FROM REQUIREMENT RELATING TO REPORTS OF CONDITION.—Section 5(v) of the Home Owners' Loan Act (12 U.S.C. 1464(v)) is amended by adding at the end the following new paragraph:

"(9) EXEMPTION FOR GUARANTEED SAVINGS ASSOCIATIONS.—This subsection shall not apply with respect to any guaranteed savings association.".

(l) EXEMPTION FROM REQUIREMENT RELATING TO LIQUID ASSETS.—Section 6 of the Home Owners' Loan Act (12 U.S.C. 1465) is amended by adding at the end the following new subsection:

"(g) EXEMPTION FOR GUARANTEED SAVINGS ASSOCIATIONS.—This section shall not apply with respect to any guaranteed savings associations.".

(m) EXEMPTION FROM AFFILIATE TRANSACTION AND LENDING LIMITS RELATING TO DIRECTORS AND OFFICERS.—Section 11 of the Home Owners' Loan Act (12 U.S.C. 1468) is amended by adding at the end the following new subsection:

"(d) EXEMPTION FOR GUARANTEED SAVINGS ASSOCIATIONS.—This section shall not apply with respect to any guaranteed savings association.

**SEC. 204. AMENDMENTS RELATING TO SAVINGS AND LOAN HOLDING COMPANIES.**

(a) GUARANTEED SAVINGS ASSOCIATION DEFINED.—Section 10(a)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)) is amended by adding at the end the following new subparagraph:

"(K) GUARANTEED SAVINGS ASSOCIATION.—The term 'guaranteed savings association' includes any savings association referred to in subparagraph (A) which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(b) EXEMPTION FROM EXAMINATION AND REPORTING REQUIREMENT.—Section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)) is amended by adding at the end the following new paragraph:

"(7) EXEMPTION FOR S&L HOLDING COMPANY WHICH CONTROLS A GUARANTEED SAVINGS ASSOCIATION.—Paragraphs (2), (3), and (4) and the authority of the Director under any such paragraph shall not apply with respect to any savings and loan holding company which controls a guaranteed savings association and any subsidiary of such company.".

(c) COORDINATION WITH SECTION 11.—Section 10(d) of the Home Owners' Loan Act (12 U.S.C. 1467a(d)) is amended by striking "Transaction" and inserting "Subject to section 11(d), transactions".

(d) EXEMPTION FROM REQUIREMENTS RELATING TO DECLARATION OF DIVIDEND.—Section 10(f) of the Home Owners' Loan Act (12 U.S.C. 1467a(f)) is amended by adding at the end the following new sentence: "This subsection shall not apply with respect to any savings and loan company which controls a guaranteed savings association.".

(e) EXEMPTION FROM RESTRICTIONS ON HIGH-RISK ACTIVITIES.—Section 10(p) of the Home

Owners' Loan Act (12 U.S.C. 1467a(p)) is amended by adding at the end the following new paragraph:

"(3) EXEMPTION FOR PARENT OF GUARANTEED SAVINGS ASSOCIATION.—This subsection shall not apply with respect to any savings and loan company which controls a guaranteed savings association.".

(f) NONAPPLICABILITY OF QUALIFIED STOCK ISSUANCE PROVISIONS.—Section 10(q)(1)(A) of the Home Owners' Loan Act (12 U.S.C. 1467a(q)(1)(A)) is amended—

(1) in clause (i), by inserting "which is not a guaranteed savings association" after "undercapitalized savings association"; and

(2) in clause (ii), by inserting "and does not control a guaranteed savings association" after "controls an undercapitalized savings association".

**SEC. 205. AMENDMENTS RELATING TO THE FEDERAL DEPOSIT INSURANCE CORPORATION.**

(a) AMENDMENTS TO DEFINITIONS.—

(1) DEFINITIONS RELATING TO DEPOSITORY INSTITUTIONS.—Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) is amended by adding at the end the following new paragraphs:

"(6) GUARANTEED DEPOSITORY INSTITUTION NOT INCLUDED.—Except as otherwise specifically provided in any provision of this Act, the terms depository institution' and 'insured depository institution' do not include any guaranteed depository institution.

"(7) GUARANTEED DEPOSITORY INSTITUTION.—The term 'guaranteed depository institution' has the meaning given to such term in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992.".

(2) DEFINITIONS RELATING TO BANKS.—Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is amended by adding at the end the following new paragraph:

"(5) GUARANTEED DEPOSITORY INSTITUTIONS NOT INCLUDED.—Except as otherwise specifically provided in any provision of this Act, the terms 'bank', 'national bank', 'State bank', 'District bank', 'branch', and 'Federal branch', whether or not any such term appears in conjunction with the term 'insured', 'member', or 'nonmember', do not include any guaranteed depository institution.".

(3) DEFINITIONS RELATING TO SAVINGS ASSOCIATIONS.—Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) is amended by adding at the end the following paragraph:

"(4) GUARANTEED DEPOSITORY INSTITUTIONS NOT INCLUDED.—Except as otherwise specifically provided in any provision of this Act, the terms 'savings association', 'Federal savings association', and 'State savings association', whether or not any such term appears in conjunction with the term 'insured', do not include any guaranteed depository institution.".

(b) PROHIBITION ON NEW INSURED DEPOSITORY INSTITUTIONS, BY CHARTER OR CONVERSION, AFTER EFFECTIVE DATE OF CROSS-GUARANTEE SYSTEM.—

(1) NO CONTINUATION OF INSURANCE IN CONNECTION WITH CONVERSIONS.—Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended by adding at the end the following new subsection:

"(e) INAPPLICABILITY OF SUBSECTIONS (B), (C), AND (D) AFTER EFFECTIVE DATE OF CROSS-GUARANTEE SYSTEM.—Subsections (b), (c), and (d) shall not apply as of the effective date of the cross-guarantee system under subsection (a) of section 141 of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992, as published by the Corporation in the Federal Register pursuant to subsection (c) of such section.".

(2) NO NEW INSURANCE UNDER THE FEDERAL DEPOSIT INSURANCE ACT.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended by adding at the end the following new subsection:

"(f) PROHIBITION ON APPROVAL OF INSURANCE AFTER EFFECTIVE DATE OF CROSS-GUARANTEE SYSTEM.—No application for insurance under this section may be approved by the Corporation on or after the date by which the Corporation has approved, under subsection (b) of section 141 of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992, 200 cross-guarantee contracts described in subsection (a)(2) of such section.".

(c) TERMINATION OF DEPOSIT INSURANCE OF GUARANTEED DEPOSITORY INSTITUTION.—Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9), the following new paragraph:

"(10) TERMINATION OF INSURANCE OF GUARANTEED DEPOSITORY INSTITUTION.—The status of any insured depository institution as an insured depository institution shall cease as of the date the institution becomes a guaranteed depository institution.".

(d) INELIGIBILITY OF GUARANTEED DEPOSITORY INSTITUTION FOR DEPOSIT INSURANCE UNDER THE FEDERAL DEPOSIT INSURANCE ACT.—Section 5(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)(1)) is amended by striking "trust funds (as defined in section 3(p))," and inserting "trust funds (as defined in section 3(p)) and is not a guaranteed depository institution,".

(e) SPECIAL RULE RELATING TO POWERS OF FDIC AS CONSERVATOR OR RECEIVER OF GUARANTEED DEPOSITORY INSTITUTION.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end the following new paragraph:

"(20) SPECIAL RULE IN THE CASE OF GUARANTEED DEPOSITORY INSTITUTION.—If the Corporation appoints itself conservator or receiver for any guaranteed depository institution in accordance with section 127(a)(1) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992—

"(A) each subsection of this section other than subsections (a), (b), (c), (m), and (n) shall be applied, for purposes of section 127(a)(2) of such Act, by substituting 'guaranteed depository institution' for 'insured depository institution' each place such term appears in any such subsection;

"(B) the term 'insured deposits', as such term is used in subsection (f), shall be deemed, for purposes of subparagraph (A), to refer to deposits insured under section 128(b) of such Act; and

"(C) the payment of any deposits referred to in subparagraph (B) by the Corporation under subsection (f), as applicable pursuant to subparagraph (A) of this paragraph and section 127(a)(2) of such Act, shall be made from the cross-guarantee backup fund established under section 128(a)(1) of such Act.".

(f) APPLICABILITY OF INSURANCE LOGO PROVISIONS.—Section 18(a) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended by adding at the end the following new paragraph:

"(4) APPLICABILITY TO GUARANTEED INSTITUTIONS.—For purposes of this subsection, the terms 'insured bank' and 'insured savings association' shall be deemed to include any bank (as defined in section 3(a) without regard to paragraph (5) of such section) and any savings association (as defined in section 3(b) without regard to paragraph (4) of such section) which is a guaranteed depository institution.".

(g) GUARANTEED DEPOSITORY INSTITUTIONS NOT EXEMPT FROM LIMITATION ON INSURANCE UNDERWRITING.—Section 24(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831(b)) is amended by adding at the end the following new paragraph:

"(3) APPLICABILITY TO GUARANTEED DEPOSITORY INSTITUTIONS.—Notwithstanding section 3(a)(5), the term 'insured State bank' includes, for purposes of this subsection, a State bank which is a guaranteed depository institution.".

**SEC. 206. AMENDMENTS TO TITLE 11, UNITED STATES CODE.**

(a) DEFINITION OF DEBTOR INCLUDES GUARANTEED COMPANY.—Section 109 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) GUARANTEED COMPANIES.—Notwithstanding subsections (b) and (d), a guaranteed company (as defined in section 101(a)(7) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) may be a debtor under chapter 7 or 11.".

(b) INVOLUNTARY CASE INVOLVING A GUARANTEED COMPANY MAY BE BROUGHT ONLY UNDER CHAPTER 11.—Section 303 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(1) INVOLUNTARY CASES UNDER CHAPTER 11 ONLY.—An involuntary case against a guaranteed company (as defined in section 101(a)(7) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) may be commenced only under chapter 11.".

(c) SPECIAL RULES APPLICABLE TO REORGANIZATION OF GUARANTEED COMPANY.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following new section:

**"§ 1115. Guaranteed company reorganization.**

"(a) CROSS-GUARANTEE SYNDICATE TREATED AS DEBTOR IN POSSESSION.—The cross-guarantee syndicate of a guaranteed company—

"(1) may assume control of a guaranteed company under section 118 of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992 at any time after a case is commenced against such company under this chapter; and

"(2) shall be treated as the debtor in possession for purposes of this chapter upon assuming such control.

"(b) OPERATION OF COMPANY BY DEBTOR IN POSSESSION.—Notwithstanding any other provision of this subchapter, the court may not appoint a trustee for, or otherwise intervene in the operations of, a guaranteed company which is a debtor in a case under this chapter, including a guaranteed company the cross-guarantee syndicate of which has assumed control of the company under section 118 of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992.

"(c) CONTINUED FULL APPLICABILITY OF CROSS-GUARANTEE CONTRACT.—No action may be taken by the court or any person under this chapter in connection with a case against a guaranteed company which would alter or affect the applicability or effectiveness of any provision of the cross-guarantee contract in effect with respect to such company.

"(d) LIABILITY OF DIRECT GUARANTORS FOR DAMAGES CAUSED BY MISMANAGEMENT OR MALFEASANCE BY THE GUARANTEED COMPANY.—The direct guarantors of any guaranteed company which is a debtor in a case

under this chapter shall be liable for any damages suffered by any creditor of the company after the commencement of such case other than for damages or losses incurred in the normal course of business.

"(e) DEFINITIONS.—The terms 'cross-guarantee syndicate', 'direct guarantor', and 'guaranteed company' have the meanings given to such terms in section 101 of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 11, of title 11, United States Code, is amended by inserting after the item relating to section 114 the following new item:

"1115. Guaranteed company reorganization.".

**SEC. 207. AMENDMENTS TO OTHER BANKING LAWS.**

(a) EXEMPTION FROM DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.—Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end the following new paragraph:

"(10) GUARANTEED DEPOSITORY INSTITUTION.—Any guaranteed depository institution and any affiliate of such institution.".

(b) EXEMPTION FROM REAL ESTATE APPRAISAL REQUIREMENTS.—Section 1121(4) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(4)) is amended to read as follows:

"(4) FEDERALLY RELATED TRANSACTION.—The term Federally related transaction—

"(A) means any real estate-related financial transaction which—

"(i) a Federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates;

"(ii) requires the services of an appraiser; and

"(B) does not include any real estate-related financial transaction which is regulated by a Federal financial institutions regulatory agency solely by reason of the involvement of a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992) in such transaction.".

(c) EXEMPTION FROM PAYMENT SYSTEM REQUIREMENTS.—Subtitle A of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended by adding at the end the following new section:

**"SEC. 408. EXEMPTION FOR GUARANTEED DEPOSITORY INSTITUTIONS.**

"This subtitle shall not apply with respect to a depository institution which is a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992).".

(d) EXEMPTION FROM THE INTERNATIONAL LENDING SUPERVISION ACT OF 1983.—The last sentence of section 903(2) of the International Lending Supervision Act of 1983 (12 U.S.C. 3902(2)) is amended by inserting "or a guaranteed depository institution (as defined in section 101(a)(8) of the Taxpayer Protection, Deposit Insurance Reform, and Regulatory Relief Act of 1992)" before the period.